

BEFORE THE
ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY) DOCKET NO.
(AmerenCIPS) and) 02-0798
UNION ELECTRIC COMPANY)
(AmerenUE))

Application for entry of protective)
order to protect confidentiality of)
materials submitted in support of)
revised gas service tariffs.)

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY) DOCKET NO.
) 03-0008

Proposed general increase in natural)
gas rates. (Tariffs filed November 27,)
2002))

UNION ELECTRIC COMPANY) DOCKET NO.
) 03-0009

Proposed general increase in natural)
gas rates. (Tariffs filed November 27,)
2002))

Springfield, Illinois
July 8, 2003

Met, pursuant to notice, at 9:00 A.M.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge
MR. IAN BRODSKY, Administrative Law Judge

SULLIVAN REPORTING COMPANY, by
Cheryl A. Davis, Reporter, CSR License #084-001662

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PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Numbers 02-0798, 03-0008, and 03-0009. The latter two concern a proposed general increase in natural gas rates submitted by Central Illinois Public Service Company, d/b/a AmerenCIPS, and Union Electric Company, d/b/a AmerenUE, respectively. The former concerns a petition or rather application for a protective order regarding matters submitted with the revised gas tariffs.

May I have the appearances for the record, please.

MR. FITZHENRY: For AmerenCIPS and AmerenUE, Edward Fitzhenry, 1901 Chouteau Avenue, St. Louis, Missouri 63103.

MR. BYRNE: For AmerenCIPS and AmerenUE, Thomas M. Byrne, 1901 Chouteau Avenue, St. Louis, Missouri 63103.

MR. FLYNN: For AmerenCIPS and AmerenUE, Christopher W. Flynn, Jones Day, 77 West Wacker, Suite 3500, Chicago, Illinois 60601.

1 MS. LUCAS: Appearing on behalf of the Citizens
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4 MR. MOORE: Appearing on behalf of Business
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8 MR. CLARKE: Appearing on behalf of the People
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12 MR. MATRISCH: Appearing on behalf of Staff of
13 the Illinois Commerce Commission, Steven L. Matrisch
14 and Linda M. Buell, 527 East Capitol Avenue,
15 Springfield, Illinois 62701.

16 MS. MEINERS: Appearing on behalf of
17 MidAmerican Energy Company, Carla Meiners, 4299
18 Northwest Urbandale Drive, Urbandale, Iowa 50322.

19 JUDGE ALBERS: Are there any others wishing to
20 enter an appearance? Let the record show no
21 response.

22 Are there any preliminary matters this morning?

1 Hearing none, I guess we can go ahead and go
2 straight to swearing in all the witnesses. If
3 you're testifying today, would you please stand and
4 raise your right hand.

5 (Whereupon four witnesses were sworn
6 by Judge Albers.)

7 JUDGE ALBERS: All right. Thank you.

8 MR. FITZHENRY: Ready to proceed?

9 JUDGE ALBERS: Yes.

10 MR. FITZHENRY: The Ameren Companies call
11 Mr. David Cross.

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DAVID CROSS

called as a witness on behalf of the Ameren Companies, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FITZHENRY:

Q. Good morning, Mr. Cross.

THE WITNESS:

A. Good morning.

Q. Would you please state your name and business address?

A. David Cross, Mercer Human Resources Consulting, 1717 Arch Street, 27th Floor, Philadelphia, Pennsylvania 19103.

Q. And on whose behalf are you testifying today?

A. AmerenUE/CIPS.

Q. And by whom are you employed?

A. Mercer Human Resources Consulting.

Q. And what is your job title?

A. I'm a senior consultant and principal with the firm in our Philadelphia office.

Q. Mr. Cross, I show you what you have before you

1 what's been previously marked for identification as
2 AmerenCIPS/UE Exhibit Number 16 titled Rebuttal
3 Testimony of David Cross and I ask whether this was
4 prepared by you or under your direction and
5 supervision?

6 **A.** Yes, it was.

7 **Q.** And does your rebuttal testimony consist of 16
8 pages of questions and answers?

9 **A.** Yes, it does.

10 **Q.** Do you have any modifications or corrections to
11 your rebuttal testimony?

12 **A.** No, I do not.

13 **Q.** If I were to ask you the questions that are set
14 forth in Exhibit 16.0, would your answers be as set
15 forth therein?

16 **A.** Yes, they would.

17 **Q.** Now directing your attention to a different
18 exhibit, it has been previously marked for
19 identification as AmerenCIPS /UE Exhibit Number 29
20 titled Surrebuttal Testimony of David Cross and ask
21 whether this surrebuttal testimony was prepared by
22 you or under your direction and supervision?

1 **A.** Yes, it was.

2 **Q.** And does Exhibit 29 consist of four pages of
3 questions and answers?

4 **A.** Yes, it does.

5 **Q.** If I were to ask you the questions that are set
6 forth in this exhibit, would your answers be as set
7 forth therein?

8 **A.** Yes, they would.

9 MR. FITZHENRY: I move for the admission of
10 AmerenCIPS/UE Exhibits 16 and 29 and tender
11 Mr. Cross for examination.

12 JUDGE ALBERS: Any objection?

13 MS. BUELL: Staff has no objection.

14 MS. LUCAS: No objection.

15 MR. MOORE: No objection.

16 MR. CLARKE: No objection.

17 JUDGE ALBERS: Hearing none, we'll go ahead and
18 hear cross, and I believe Staff has questions of
19 Mr. Cross?

20 MS. BUELL: That's correct, Your Honor.

21

22

1 CROSS EXAMINATION

2 BY MS. BUELL:

3 Q. Good morning, Mr. Cross.

4 Q. Good morning?

5 Q. My name is Linda Buell, and I represent ICC
6 Staff witnesses in this proceeding. I have a few
7 questions for you regarding both your surrebuttal
8 and rebuttal testimony.

9 If we could start with your surrebuttal
10 testimony, please, I'm referring to page 3, lines 15
11 through 53, and there you indicate that Staff
12 witness Jones's comments that Ameren's incentive
13 plans are discretionary and may be suspended or
14 discontinued at any time has no foundation in market
15 reality. Is that correct?

16 A. That's correct, yes.

17 Q. Are you aware that Ameren made a decision to
18 suspend the incentive compensation plan for
19 bargaining unit employees for the year 2003?

20 A. I am aware of that, yes.

21 Q. In fact, that's in your rebuttal testimony, is
22 it not?

1 **A.** I don't believe so. Yes, it is. I'm sorry.

2 Yes, it is.

3 **Q.** I believe on page 12 of our rebuttal testimony,
4 line 267, there's a parenthetical that states: "I
5 understand this particular plan was suspended in the
6 year 2003."

7 **A.** Yes.

8 **Q.** Correct?

9 **A.** Yes, it is.

10 **Q.** Now referring to rebuttal testimony, page 11,
11 lines 226 through 246, I'm going to try to summarize
12 that. You do not agree with Ms. Jones's statement
13 ratepayers would have provided funding even if no
14 costs were incurred by the company because plan
15 goals were not met. Is that correct?

16 MR. FITZHENRY: Could you give me that citation
17 again, Ms. Buell?

18 **A.** Yeah. Thank you.

19 MS. BUELL: Specifically lines 226 through 228.

20 MR. FITZHENRY: Thank you.

21 **A.** I'm sorry. Could you repeat the question?

22 **Q.** You do not agree with Ms. Jones's statement

1 ratepayers would have provided funding even if no
2 costs were incurred by the company because plan
3 goals were not met. Is that correct?

4 **A.** As I stated in my testimony, that's correct.

5 **Q.** Now, if in the first year Ameren were to meet
6 its financial goals and the employee also meets his
7 or her performance goals, would the employee receive
8 any additional compensation?

9 **A.** They would receive variable -- they would
10 receive incentive payments for successfully
11 achieving the key performance indicators as funded
12 by the success on the earnings per share measure.
13 That's correct.

14 **Q.** Now if in the second year Ameren meets its
15 financial goals but the employee does not meet his
16 or her performance goals, would the employee receive
17 any additional compensation?

18 **A.** As I understand the plan, they would not in
19 that case, no.

20 **Q.** Then in the third year, if an employee were to
21 meet his or her performance goals but Ameren does
22 not meet its financial goals, would the employee

1 receive any additional compensation?

2 **A.** Under the current plan, no. Under the current
3 plan, the plan would have to be funded by an
4 earnings measure.

5 **Q.** Okay. Now if we were to assume that the
6 company did not initiate a rate proceeding in this
7 three-year period, would the base rates charged to
8 customers in each of the three years be the same?

9 **A.** Help me again. I'm sorry. If the --

10 **Q.** Assume that the company didn't initiate a rate
11 proceeding in this three-year period that we just
12 talked about.

13 **A.** Yes.

14 **Q.** Would the base rates that were charged to
15 customers in each of these three years be the same?

16 **A.** I believe they would, yes.

17 **Q.** And if the base rates included a component for
18 incentive compensation, would ratepayers have
19 provided funding for incentive compensation for each
20 year even if no costs for incentive compensation
21 were incurred by Ameren because plan goals were not
22 met?

1 **A.** Yes, they would.

2 MS. BUELL: Thank you. I have no further
3 cross.

4 JUDGE ALBERS: Any others?

5 Okay. Do you have any redirect?

6 MR. FITZHENRY: Yeah, just briefly.

7 REDIRECT EXAMINATION

8 BY MR. FITZHENRY:

9 **Q.** Mr. Cross, you acknowledged in your response to
10 one of Ms. Buell's questions that you are aware that
11 the Ameren management team has suspended the
12 incentive compensation for the union employees in
13 2003. Is that right?

14 **A.** That's correct, yes.

15 **Q.** And yet in your testimony, in your surrebuttal
16 testimony, you indicate that discontinuing such a
17 plan is not founded or grounded in market reality.
18 How do you reconcile the two? That is, where the
19 company has, in fact, temporarily suspended the
20 union incentive compensation plan with your
21 testimony that says that that's really not something
22 you would expect in terms of "market reality"?

1 **A.** My response to that is that we're looking at
2 one situation where that plan was excluded. On a
3 regular basis any organization that would
4 consistently discontinue a plan would not be a
5 reasonable business practice to perform. In effect,
6 if an organization said they were going to implement
7 an incentive plan and then didn't pull out -- and in
8 effect pulled the plan out in terms of eligible
9 employees, it would have a dramatic effect in terms
10 of employee morale, in terms of people recognizing
11 that they would receive incentives that they were
12 otherwise promised. To me it wouldn't make any
13 sense from a market standpoint. It would be
14 similar, as I said in my surrebuttal testimony, it
15 would be very similar to saying -- it would be
16 similar to an organization that discontinued or
17 changed salary levels midstream. You wouldn't see
18 that.

19 **Q.** Okay.

20 **A.** And to the extent that I comment in my
21 surrebuttal, it really relates to, in effect, on a
22 regular basis you wouldn't expect to see it in

1 market reality.

2 **Q.** Beyond the one instance where the Ameren
3 management team suspended the union incentive
4 compensation plan, are you aware of any other time
5 in the Ameren companies' history where they have
6 suspended their incentive compensation plan?

7 **A.** No, I'm not.

8 MR. FITZHENRY: Thank you. That's all the
9 questions I have.

10 JUDGE ALBERS: Any recross?

11 MS. BUELL: Staff has no recross.

12 JUDGE ALBERS: Okay. Thank you, Mr. Cross.

13 (Witness excused.)

14 And, for the record, AmerenCIPS/UE Exhibits 16
15 and 29 are admitted.

16 (Whereupon AmerenCIPS/UE Exhibits 16 and
17 29 were received into evidence.)

18 MR. FLYNN: Ameren's next witness is Mr. Jon
19 Carls.

20 MR. BRODSKY: Start whenever you're ready.

21

22

JON R. CARLS

called as a witness on behalf of the Ameren Companies, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FLYNN:

Q. Mr. Carls, would you please state your name and spell it for the record?

THE WITNESS:

A. My name is Jon Carls. That's J-O-N C-A-R-L-S.

Q. Mr. Carls, did you submit direct testimony on behalf of the Respondents in this case?

A. Yes, I did.

Q. Mr. Carls, directing your attention to a document previously marked as AmerenCIPS Exhibit Number 10.0 bearing the caption Direct Testimony of Jon R. Carls, is this a copy of your direct testimony in this case?

A. Yes.

Q. On behalf of CIPS?

A. On behalf of CIPS.

Q. Pardon me. And is this testimony true and

1 correct to the best of your knowledge?

2 **A.** Yes, it is.

3 **Q.** And in the course of this exhibit do you
4 identify and sponsor certain other exhibits which
5 have been marked as AmerenCIPS Exhibit Numbers 10.1,
6 10.2, 10.3, and 10.4?

7 **A.** Yes, I do.

8 **Q.** And is the information set forth on those
9 exhibits true and correct to the best of your
10 knowledge?

11 **A.** Yes, it is.

12 **Q.** Did you also prepare and submit direct
13 testimony on behalf of AmerenUE?

14 **A.** Yes, sir.

15 **Q.** I direct your attention to a document
16 previously marked as AmerenUE Exhibit Number 10.0
17 bearing the caption Direct Testimony of Jon R. Carls
18 and ask you if this is a copy of the direct
19 testimony that you prepared and submitted on behalf
20 of AmerenUE?

21 **A.** Yes, it is.

22 **Q.** And is that testimony true and correct to the

1 best of your knowledge?

2 **A.** It is.

3 **Q.** And in the course of that testimony did you
4 identify and sponsor certain exhibits which have
5 been marked as AmerenUE Exhibit Numbers 10.1, 10.2,
6 10.3, and 10.4?

7 **A.** Yes, I did.

8 **Q.** Did you also submit rebuttal testimony in this
9 case?

10 **A.** I did.

11 **Q.** I direct your attention to a document
12 previously marked as AmerenCIPS /UE Exhibit Number
13 21.0 bearing the caption Rebuttal Testimony of Jon
14 R. Carls. Is this a copy of your rebuttal testimony
15 in this case?

16 **A.** It is.

17 **Q.** Is that testimony true and correct to the best
18 of your knowledge?

19 **A.** Yes, it is.

20 **Q.** And with that testimony did you submit
21 certificates of publication on behalf of AmerenCIPS
22 and AmerenUE?

1 **A.** Yes, I did.

2 **Q.** I direct your attention to a document
3 previously marked as AmerenCIPS Exhibit Number 21.1
4 consisting of 29 pages. Are these the certificates
5 of publication for AmerenCIPS?

6 **A.** They are.

7 **Q.** And I direct your attention to a document
8 previously marked as AmerenUE Exhibit Number 21.1
9 consisting of four pages. Are these the
10 certificates of publication for AmerenUE?

11 **A.** Yes, they are.

12 **Q.** And do the certificates included in both
13 AmerenCIPS Exhibit Number 21.1 and AmerenUE Exhibit
14 Number 21.1 accurately reflect the information that
15 they are intended to reflect?

16 **A.** Yes, they do.

17 **Q.** Nearly lastly, did you prepare surrebuttal
18 testimony for this case?

19 **A.** Yes, I did.

20 **Q.** I direct your attention to a document
21 previously marked as AmerenCIPS /UE Exhibit Number
22 34.0 bearing the caption Surrebuttal Testimony of

1 Jon R. Carls. Is this a copy of your surrebuttal
2 testimony?

3 **A.** Yes, it is.

4 **Q.** Is this testimony true and correct to the best
5 of your knowledge?

6 **A.** Yes.

7 **Q.** In connection with that surrebuttal testimony
8 did you submit a proposed rate design for
9 AmerenCIPS?

10 **A.** Yes.

11 **Q.** And I show you a document previously marked as
12 AmerenCIPS Exhibit Number 34.1. Is that a copy of
13 the proposed AmerenCIPS rate design?

14 **A.** Yes, it is.

15 **Q.** And is the information reflected on that
16 exhibit true and correct to the best of your
17 knowledge?

18 **A.** Yes, it is.

19 **Q.** Did you also propose a rate design for
20 AmerenUE?

21 **A.** I did.

22 **Q.** I show you a document previously marked as

1 AmerenUE Exhibit Number 34.1. Is this a copy of the
2 AmerenUE proposed rate design?

3 **A.** Yes, it is.

4 **Q.** And is the information reflected on that
5 exhibit true and correct to the best of your
6 knowledge?

7 **A.** Yes.

8 MR. FLYNN: At this time I would move for the
9 admission into evidence of AmerenCIPS Exhibits 10.0,
10 10.1, 10.2, 10.3, and 10.4, AmerenUE Exhibits 10.0
11 through 10.4, AmerenCIPS /UE Exhibit 21.0,
12 AmerenCIPS Exhibit 21.1, AmerenUE Exhibit 21.1,
13 AmerenCIPS /UE Exhibit 34.0, AmerenCIPS Exhibit
14 Number 34.1, and AmerenUE Exhibit Number 34.1.

15 MR. BRODSKY: Is there any objection?

16 MR. MATRISCH: No objection.

17 MR. MOORE: No objection.

18 MS. LUCAS: No objection.

19 MR. CLARKE: No objection.

20 JUDGE BRODSKY: Then those exhibits will be
21 admitted subject to cross.

22

1 (Whereupon AmerenCIPS Exhibits 10.0,
2 10.1, 10.2, 10.3, and 10.4, AmerenUE
3 Exhibits 10.0 through 10.4, AmerenCIPS /UE
4 Exhibit 21.0, AmerenCIPS Exhibit 21.1,
5 AmerenUE Exhibit 21.1, AmerenCIPS /UE
6 Exhibit 34.0, AmerenCIPS Exhibit 34.1,
7 and AmerenUE Exhibit Number 34.1 were
8 received into evidence.)

9 MR. FLYNN: Mr. Carls is tendered for
10 cross-examination.

11 MS. LUCAS: I can start.

12 CROSS EXAMINATION

13 BY MR. LUCAS:

14 **Q.** Good morning, Mr. Carls.

15 **A.** Good morning.

16 **Q.** My name is Julie Lucas, and I represent the
17 Citizens Utility Board.

18 Mr. Carls, the current residential rate
19 structure for AmerenCIPS consists of two usage
20 blocks, 0 to 50 therms and over 50 therms. Correct?

21 **A.** That's correct.

22 **Q.** Is this rate structure unreasonable?

1 **A.** No.

2 **Q.** In this proceeding AmerenCIPS is proposing to
3 increase the residential first block to 90 therms,
4 so the two-block structure would be 0 to 90 therms
5 and over 90 therms. Correct?

6 **A.** That's correct.

7 **Q.** Now customers who exceed the 90 therms per
8 month would likely do so only in the winter. Isn't
9 that right?

10 **A.** Most residential customers would not exceed 90
11 therms until wintertime.

12 **Q.** Therefore, virtually the only usage under the
13 company's proposal in this proceeding to be subject
14 to the lower tailblock rate would be winter usage.
15 Right?

16 **A.** Most likely.

17 **Q.** AmerenCIPS' peak demand occurs mostly in the
18 winter. Correct?

19 **A.** Yes.

20 **Q.** Now, Mr. Difani, you thought peak demands were
21 so important in causing the company --

22 MR. FLYNN: Mr. Carls.

1 **Q.** Mr. Carls, you thought peak demands were so
2 important in causing the company's costs that you
3 allocated all transmission costs and wanted to
4 allocate 76 percent of distribution mains costs on
5 peak demands, correct?

6 **A.** I had nothing to do with the allocation cost.
7 That was Mr. Difani.

8 MS. LUCAS: All right. That's all I have.

9 CROSS EXAMINATION

10 BY MR. MOORE:

11 **Q.** Good morning, Mr. Carls. I'm Steve Moore here
12 for BEAR.

13 **A.** Good morning.

14 **Q.** All my questions will be directed toward your
15 rebuttal testimony, Exhibit 21.

16 Now, first of all, calling your attention to
17 page 4, line 84, you state there that Ms. Smith's
18 proposal is not tied to any operational need for
19 interruptible service and should be rejected. Now,
20 when you say it's not tied to any operational need,
21 what do you mean by that?

22 **A.** My understanding of Ms. Smith's proposal is

1 that it would be -- the interruptible rate would be
2 a selective rate. The customer could select whether
3 to be interruptible or not, and in our last gas rate
4 case Ameren made the choice that the interruptible
5 class was only based on those for which inadequate
6 capacity of mains existed, and to adopt her
7 philosophy now would be to go backwards to make it a
8 selective rate which has nothing to do with whether
9 we have the capacity of our mains there to serve the
10 customer or not.

11 **Q.** Now, in addition to needing mains to serve
12 customers, does the company also have storage
13 facilities to meet their needs on peak days?

14 **A.** That's a supply issue. That's not at issue in
15 setting the rates here, but, yes, the answer is yes,
16 we have supply.

17 **Q.** But if a group of customers agreed to become
18 interruptible and a company interrupted them, would
19 that not allow its current storage capacity to
20 provide service to customers that would otherwise
21 not be able to get service?

22 **A.** It might; it might not.

1 **Q.** And would the basis of your answer be depending
2 upon the output the particular day?

3 **A.** If you get back into interruptible supply
4 issues, then you're dependent upon weather and peaks
5 and things like that. Our focus has been that the
6 interruptibility, as I've described in surrebuttal,
7 is a constrained delivery system. That's the only
8 factor in a world of delivery services that really
9 should matter whether a customer gets firm capacity
10 service or not.

11 **Q.** Now, when you state that you think -- other
12 than the current interruptible customers that a
13 company can deliver to all customers, do you mean
14 that on the coldest, windiest day that you might
15 experience?

16 **A.** If the gas is available, the distribution
17 company can deliver it.

18 **Q.** Now, do you have any sort of projections of
19 your customer demand that would show at what point
20 the current distribution system or transmission
21 system would not be adequate to meet the projected
22 peak day usage?

1 **A.** I don't personally have that. I'm sure our
2 distribution -- gas distribution engineers in each
3 division look at that on a regular basis as they're
4 system planning, what parts of the system need
5 upgraded, what part of the system maintained
6 differently, but I don't have that data.

7 **Q.** Does the company have regular system upgrades
8 each year, or is that a very unusual event?

9 **A.** There are some every year.

10 **Q.** Now the company does have projections of
11 customer demand?

12 **A.** Yes.

13 **Q.** You don't have those, access to that?

14 **A.** No.

15 **Q.** Is there any witness that is testifying that
16 would?

17 **A.** I'm sorry?

18 **Q.** Is there any witness that's testifying today
19 that would?

20 **A.** I don't believe there are. That would be more
21 of a gas engineering function.

22 **Q.** Okay.

1 **A.** I don't believe we have any gas engineers here
2 today.

3 **Q.** Okay.

4 Now is it my understanding your estimates of
5 the send-out are based on a 78 degree day? Is that
6 correct?

7 **A.** I don't know.

8 **Q.** You don't know? Okay. I guess actually who
9 does is Mr. Dannahy. Are you familiar with that
10 testimony?

11 **A.** I'm familiar with he did weather normalization.
12 That's about the extent of it.

13 **Q.** And you wouldn't happen to know what the
14 coldest day the company has experienced in the last
15 two years.

16 **A.** No.

17 **Q.** Okay.

18 And it's my understanding that the company has
19 not requested that any customer interrupt their load
20 since 1996?

21 **A.** I know we have not from '97 forward.

22 **Q.** Okay. And do you know if the company has

1 experienced its estimated peak delivery day, degree
2 day during that period?

3 **A.** I do not know.

4 **Q.** Now, do you know how the company determines
5 what its storage needs are?

6 **A.** Not specifically. It's a function of
7 projections of supply available, pricing, and
8 demand, but more specifically than that, I don't
9 know.

10 **Q.** And the company has a combination of owned
11 storage and leased storage. Is that correct?

12 **A.** That's correct.

13 **Q.** And so to the extent it sees a need to increase
14 its storage, it could do one or the other, build
15 more of its own or purchase more, lease more?

16 **A.** Whichever is more economical, yeah.

17 **Q.** Now calling your attention to page 10 of your
18 testimony, we'll move on to the grain dryer rate
19 I'll call it. You state on line 216 there has been
20 no data presented that would support the development
21 of a rate specifically for grain dryers. Now, in
22 Ms. Smith's direct testimony she did provide a

1 sample rate that was based upon the company's
2 cost-of-service study. Is that correct?

3 **A.** Yes, she did.

4 **Q.** And that rate was based upon a sample of
5 customers and looked at their load factors and
6 plugged those into the company's rate design. Is
7 that correct?

8 **A.** I believe that was her attempt, yes.

9 **Q.** And it's my understanding that one of your
10 concerns with her study was that the sample size was
11 too small?

12 **A.** Well, it certainly is not adequate information
13 on which to develop rates.

14 **Q.** And what sort of information would the company
15 need in order to design a rate based on the load
16 shape of a group of customers?

17 **A.** Well, Mr. Difani's cost-of-service study would
18 do allocations based on a variety of factors which
19 he can explain, but part of those include the usage
20 because the billing -- what we call billing
21 parameters, which is generally the number of
22 customers' bills to be issued in a year, the number

1 of customers times 12, and the volume of usage in a
2 test year, or in a calendar year, and we need to
3 have those two things. Once Mr. Difani has
4 allocated the dollars that should go to that class,
5 you need those two parameters to come up with actual
6 rates. You can't just say, well, maybe five of them
7 are going to be there so develop rates. You would
8 have to have the expected class identified.

9 **Q.** Now do you have any reason to believe that the
10 grain dryer's load is any different than what
11 Ms. Smith described which is it occurs primarily
12 September, October, November, and would not occur on
13 very cold days?

14 **A.** I will agree with the first part, that it's
15 primarily a fall-driven parameter. I'm not sure
16 about how often grain dryers dry during the
17 wintertime.

18 **Q.** Now at some point she also mentioned that on
19 extremely cold days the grain dryer would not dry
20 grain because the need to raise to a certain
21 temperature would be more difficult on colder days.
22 Do you agree with that statement?

1 **A.** I agree with that concept, yes.

2 **Q.** It's more of a matter of economics that they
3 may not decide to do it on those days.

4 **A.** Correct.

5 **Q.** Now is it my understanding that the company
6 does not know which of its customers use gas to dry
7 grain?

8 **A.** That would be true.

9 **Q.** Does your company try to identify its customers
10 by what I believe is called the Standard Industrial
11 Classification Code?

12 **A.** There is some use of SIC codes, yeah.

13 **Q.** And does the company use the SIC code for grain
14 dryers when it initially signs up a customer or at
15 any other time?

16 **A.** I'm not familiar. Certainly we have grain
17 dryers who are as large as river port elevators and
18 as small as single grain bins on a farm. I don't
19 know how you would classify them even if we did
20 attempt to use that classification.

21 **Q.** But does the company use the SIC code for its
22 customers?

1 **A.** We put it in in some cases. It's mostly for
2 some reporting purposes that are frankly quite
3 outdated.

4 **Q.** Still on page 10, line 225, you state while a
5 customer's load shape may have some impact on the
6 allocation of gas to the delivery system. Now when
7 you speak of the cost of the delivery system, you
8 mean there all of the components, all the way from
9 the main feeding into the customer's facility all
10 the way upstream to transmission lines?

11 **A.** In general terms, that's the delivery system,
12 yeah.

13 **Q.** Now assume we have a grain dryer customer who
14 uses grain [sic] September through November and
15 therefore nothing during the peak period. The
16 company must build main going into that facility
17 that is designed to meet its peak need, whether it's
18 September, October, November. Is that correct?

19 **A.** I'm sorry.

20 **Q.** Just the main into the facility, you need to
21 size that to meet their peak need. Is that correct?

22 **A.** By their, do you mean the company or the

1 customer.

2 **Q.** The customer, the grain dryer.

3 **A.** Yes.

4 **Q.** Now moving upstream a bit to the local
5 distribution lines serving a neighborhood with maybe
6 a couple dozen customers, would the company -- under
7 what circumstances would the company have to size
8 that particular distribution system to meet the peak
9 need of this grain dryer that has a peak in we'll
10 say November?

11 **A.** Well, in the planning for that there would be
12 some engineering estimate of what the peak would be
13 I think on a peak day, and that's how the piping
14 would be built, to meet that peak estimate.

15 **Q.** And if that peak day happens to be during --
16 the peak day of this entire, you know, main serving
17 say a dozen customers, if that peak day happens to
18 be during the January peak, that's the size you
19 build. If it happens to be during the grain dryer's
20 peak, that's the size you build to. Is that
21 correct?

22 **A.** Probably with a little cushion, yes, a little

1 excess cushion.

2 **Q.** Okay. And then moving upstream further, you do
3 the same analysis. You figure out what is the peak
4 day for that particular section of line and you
5 build for that. Is that correct?

6 **A.** Within physical constraints I assume, yeah.

7 **Q.** When the company builds transmission line, does
8 it ever -- actually distribution line, does it ever
9 charge a customer, an individual customer, for that
10 construction?

11 **A.** In some circumstances, yes.

12 **Q.** And under what circumstances would it do so?

13 **A.** For distribution there's a line extension, a
14 main extension policy, and for most there's a
15 footage allowance, and so from like a residential
16 customer, a main will be extended for I believe it's
17 200 foot free, and then service will be extended for
18 a certain amount of footage from there. For a
19 larger customer there is an additional test that can
20 be done based on revenue expected to be generated,
21 and so you can test to see if that customer will
22 actually provide enough additional revenue to

1 justify an additional investment in more pipe. If
2 not, then there could be a contribution requested.

3 **Q.** Now what sort of investment would the company
4 be making this analysis on? You said if a
5 particular line is in excess of 200 feet. Is that
6 the only circumstance?

7 **A.** I believe for gas it's predominantly just based
8 on the footage, yes.

9 MR. MOORE: Okay. I have no other questions.

10 JUDGE BRODSKY: Okay. We have a few questions.

11 EXAMINATION

12 BY JUDGE BRODSKY:

13 **Q.** What degree of granularity do you apply to your
14 use of SIC codes?

15 **A.** What degree of granularity?

16 **Q.** Yeah.

17 **A.** I honestly have no idea. The use of SIC codes
18 is done by our billing folks. From a rate design
19 purpose, they are a meaningless number for us.

20 **Q.** Okay. What generally qualifies a customer for
21 inclusion or exclusion in the interruptible class?

22 **A.** There are two design things that an engineer

1 does when he looks at a specific customer, and it
2 has to do, both of them, with whether the equipment
3 that they have installed, whether its gas-using
4 capability exceeds the ability of the piping in the
5 ground to deliver that gas at 100 percent at any
6 point in time, or, secondarily, if doing so would
7 lower the pressure to the other customers on that
8 part of the circuit, of the piping. If that happens
9 and that customer is one to which we can't supply --
10 cannot promise that we could deliver 100 percent of
11 their firm capacity, then they are given a delivery
12 constraint interruptible rate. If they do meet
13 those criteria, even if they want to say I can be
14 interruptible, we don't believe that that is
15 advantageous to the other customers.

16 **Q.** And are you aware of what a typical small,
17 residential household might use in terms of total
18 amount in a billing cycle, perhaps broken down by
19 season?

20 **A.** I've seen the data. I don't have anything with
21 me, but.

22 **Q.** Well, not any one particular house.

1 **A.** Just generally, yeah. Outside of the winter
2 months when the gas furnaces would be running, most
3 of them would be in the range of 10 to 30 therms
4 usage in those months for a residential customer.
5 In a heating season it may jump somewhere in the 70
6 to 120 range.

7 EXAMINATION

8 BY JUDGE ALBERS:

9 **Q.** I guess, first, could you just describe SIC
10 codes?

11 **A.** Not in very much detail. They're an industrial
12 classification code that's established by the
13 government. They were very commonly used in the
14 '60s and '70s, and from our viewpoint they've lost
15 much of their usefulness because we don't like to
16 develop end use rates. They're usually mostly for
17 reporting when governmental bodies want to know,
18 well, how many of your customers fall in this
19 category.

20 **Q.** Can you just give me some examples of what kind
21 of categories there are?

22 **A.** There could be mining, manufacturing, agri

1 business, various things like is that.

2 **Q.** Okay. Do you know, does CIPS and UE have
3 interruptible electric rates?

4 **A.** We do still have them in the bundled rates.
5 There are no such thing as interruptible delivery
6 service rates.

7 **Q.** With regard to the bundled rates, are those
8 interruptible electric rates only available when
9 there's some kind of system constraint?

10 **A.** No. On the bundled it is a supply option. You
11 can have an interruptible energy supply.

12 **Q.** How would you design rates if the revenue
13 requirement is determined to be lower than what CIPS
14 and UE advocate? And would you change the customer
15 charge or the usage charge? How would you --

16 **A.** The first thing that would happen is Mr. Difani
17 would rerun the cost-of-service study with the new
18 revenue requirement, and that by its nature would
19 reallocate the dollars into the customer-related
20 dollars depending on what was disallowed or reduced
21 out of our revenue requirement, so. He would then
22 provide me with new revenue requirements for

1 customer charges and delivery charges by class of
2 customers. So it is possible that that could change
3 both the customer charge and the delivery charge.

4 **Q.** Okay.

5 **A.** If the total revenue requirement changed.

6 **Q.** So it depends on whatever cost of service
7 information you get Mr. Difani?

8 **A.** And he would modify that depending on what was
9 not granted that was asked for in our revenue
10 requirement.

11 **Q.** Okay.

12 **A.** Some would be general allocation, some would be
13 specific reductions.

14 **Q.** Okay. Do you oppose efforts by the Commission
15 or would you oppose efforts by the Commission to
16 encourage conservation?

17 **A.** I don't believe the company opposes them, but
18 if there are efforts to conserve built into rates,
19 we believe there should be recognition that the
20 billing parameters which I spoke of earlier will
21 likely decreased and should be adjusted accordingly.

22 **JUDGE ALBERS:** Okay. Thank you.

1 JUDGE BRODSKY: One other question.

2 EXAMINATION

3 BY JUDGE BRODSKY:

4 Q. Speaking to the customer charge and the
5 delivery charge, how does that classification on a
6 bill impact the customer?

7 A. Well, a customer charge is a fixed monthly
8 charge, and so that customer gets that charge just
9 for us being there ready to provide service. If
10 they are a large user, it doesn't really matter.
11 They pay the same amount. If they don't use
12 anything, they still pay the same amount.

13 Q. Right.

14 A. The delivery charge is a volumetric charge, and
15 they have some control over that by how much they
16 use. Our target as a utility is to try and use what
17 we think on the average they will use so that we
18 give ourselves a chance to recover the allowed
19 revenue requirement, and if their usage patterns are
20 significantly different than what was used in a test
21 year, then there's a large chance that we'll over-
22 or under-recover what the allowed revenue

1 requirement was.

2 For the customer, in many respects the customer
3 charge is much like on your phone bill. You pay \$30
4 a month to be able to have a phone, and then the
5 delivery charge is somewhat equivalent to I make
6 long distance phones calls; I know I'm going to pay
7 so much per call.

8 JUDGE BRODSKY: Thank you.

9 Is there redirect?

10 JUDGE ALBERS: I'd like to ask one more.

11 JUDGE BRODSKY: Okay.

12 EXAMINATION

13 BY JUDGE ALBERS:

14 **Q.** Is there anything in the cost of service study
15 that you might get from Mr. Difani, assuming the
16 revenue requirement changes, is there anything about
17 that that would then -- any general theme in that
18 that would then suggest to you whether or not the
19 customer charge or the usage charge should be the
20 one that gets changed more than the other?

21 **A.** Yes. Mr. Difani will provide to me customer-
22 related revenue requirement and other related

1 revenue requirements, so his number will change
2 based on the various things that are disallowed, and
3 I will have two different sets of data for each
4 class to work with on my charges.

5 JUDGE ALBERS: Okay.

6 JUDGE BRODSKY: Redirect?

7 MR. FLYNN: I have just a few. Thanks.

8 REDIRECT EXAMINATION

9 BY MR. FLYNN:

10 Q. Mr. Carls, first, when Mr. Moore was asking you
11 questions about the interruptible rate and BEAR's
12 proposal, you used the term selective rate. Would
13 another term for that be elective rate?

14 A. Elective?

15 Q. Elective.

16 A. Yes, it would.

17 Q. Okay. All right. Mr. Moore also asked you a
18 question, and if Ms. Smith's testimony is -- he
19 asked you a question about Ms. Smith's testimony
20 regarding the usage of grain dryers on extremely
21 cold days. Do you remember those questions?

22 A. Generally, yes.

1 **Q.** All right. And as you sit here today, can you
2 say definitively what a grain dryer's usage would be
3 on an extremely cold day?

4 **A.** No. It's subject to whatever that farmer or
5 that grain manager chooses to do on that day.

6 **Q.** All right. Now, if Ms. Smith is correct and
7 grain dryers do not use significant amounts of gas
8 on a peak day, what benefit would accrue to the
9 system from interrupting such a customer on that
10 day?

11 **A.** If the grain dryer is interruptible but is not
12 on a peak day and we want to interrupt them?

13 **Q.** No. On the peak day, if the grain dryer is
14 interruptible and if the grain dryer is using no
15 gas, what benefit accrues to the system from
16 interrupting the customer on that day?

17 **A.** None.

18 MR. FLYNN: Thank you. That's all I have.

19 JUDGE BRODSKY: Recross?

20 MR. MOORE: No recross.

21 MS. LUCAS: No recross.

22 JUDGE BRODSKY: Thank you.

1 (Witness excused.)

2 MR. FLYNN: The next witness is Mr. Difani, and
3 I'll just need a minute to catch up here.

4 **PHILIP B. DIFANI, JR.**

5 called as a witness on behalf of the Ameren
6 Companies, having been first duly sworn, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. FLYNN:

10 **Q.** Good morning, Mr. Difani.

11 THE WITNESS:

12 **A.** Good morning.

13 **Q.** Would you state your name and spell it for the
14 record, please?

15 **A.** My name is Philip B. Difani, Jr., P-H-I-L-I-P
16 B. D-I-F-A-N-I.

17 **Q.** Mr. Difani, did you prepare and submit direct
18 testimony in this proceeding on behalf of AmerenCIPS
19 and AmerenUE?

20 **A.** Yes, I did.

21 **Q.** I direct your attention to a document
22 previously marked as AmerenCIPS Exhibit Number 9.0

1 bearing the caption Direct Testimony of Philip B.
2 Difani, Jr.. Is this a copy of your direct
3 testimony in this case?

4 **A.** Yes, it is.

5 **Q.** Is that testimony true and correct to the best
6 of your knowledge?

7 **A.** Yes, it is.

8 **Q.** In the course of that testimony do you sponsor
9 and identify certain exhibits that have been marked
10 as AmerenCIPS Exhibits 9.1 through 9.5?

11 **A.** Yes, I have.

12 **Q.** And is the information reflected on those
13 exhibits true and correct to the best of your
14 knowledge?

15 **A.** I made changes in the allocation factors in the
16 surrebuttal testimony, but at the time that I made
17 these, these are correct, yes.

18 **Q.** All right. Other than as subsequently
19 corrected in other filed testimony --

20 **A.** It is correct.

21 **Q.** And did you also -- I also direct your
22 attention to a document previously marked as

1 AmerenUE Exhibit 9.0 bearing the caption Direct
2 Testimony of Philip B. Difani, Jr.. Is this the
3 testimony you submitted on direct in behalf of Union
4 Electric Company?

5 **A.** Yes, it is.

6 **Q.** And is that testimony true and correct to the
7 best of your knowledge?

8 **A.** Yes, it is.

9 **Q.** And in the course of that testimony did you
10 identify and sponsor certain exhibits previously
11 marked as AmerenUE Exhibit Numbers 9.1 through 9.5?

12 **A.** Yes, I did.

13 **Q.** And do those exhibits accurately reflect what
14 they were intended to reflect at the time?

15 **A.** Yes, they do.

16 **Q.** Did you also prepare rebuttal testimony?

17 **A.** Yes, I did.

18 **Q.** I direct your attention to a document
19 previously marked as AmerenCIPS /UE Exhibit Number
20 20.0 bearing the caption Rebuttal Testimony of
21 Philip B. Difani, Jr.. Is this a copy of your
22 rebuttal testimony?

1 **A.** Yes, it is.

2 **Q.** And is that testimony true and correct to the
3 best of your knowledge?

4 **A.** As corrected later, yes.

5 **Q.** And did you also prepare and submit surrebuttal
6 testimony?

7 **A.** Yes, I have.

8 **Q.** I direct your attention to a document
9 previously marked as AmerenCIPS/UE Exhibit Number
10 33.0 bearing the caption Surrebuttal Testimony of
11 Philip B. Difani, Jr.. Is this a copy of your
12 surrebuttal testimony?

13 **A.** It is.

14 **Q.** And is this testimony true and correct to the
15 best of your knowledge?

16 **A.** It is.

17 **Q.** And with your surrebuttal testimony did you
18 prepare and submit an allocated cost of service
19 based on revenue requirements for AmerenCIPS which
20 has been marked as AmerenCIPS Exhibit Number 33.1?

21 **A.** I have.

22 **Q.** Is the information reflected on that exhibit

1 true and correct to the best of your knowledge?

2 **A.** It is.

3 **Q.** Did you also submit with your surrebuttal on
4 behalf of Union Electric Company an allocated class
5 cost of service based on revenue requirements which
6 has been marked as AmerenUE Exhibit Number 33.1?

7 **A.** Yes, I have.

8 **Q.** And is that exhibit true and correct to the
9 best of your knowledge?

10 **A.** Yes, it is.

11 MR. FLYNN: I would move for the admission of
12 AmerenCIPS Exhibits 9.0 through 9.5, AmerenUE
13 Exhibits 9.0 through 9.5, AmerenCIPS /UE Exhibit
14 20.0, AmerenCIPS /UE Exhibit 33.0, AmerenCIPS
15 Exhibit 33.1, and AmerenUE Exhibit 33.1.

16 JUDGE ALBERS: Any objection?

17 MR. MATRISCH: No objection.

18 MR. CLARKE: No objection.

19 MR. MOORE: No objection.

20 MS. LUCAS: No objection.

21 JUDGE ALBERS: Hearing none, then the exhibits
22 are admitted subject to cross.

1 (Whereupon AmerenCIPS Exhibits 9.0
2 through 9.5, AmerenUE Exhibits 9.0
3 through 9.5, AmerenCIPS /UE Exhibit 20.0,
4 AmerenCIPS /UE Exhibit 33.0, AmerenCIPS
5 Exhibit 33.1, and AmerenUE Exhibit 33.1
6 were received into evidence.)

7 JUDGE ALBERS: Who would like to begin cross?

8 MR. MATRISCH: Staff has no cross for
9 Mr. Difani, Your Honor.

10 MR. MOORE: I'll go.

11 CROSS EXAMINATION

12 BY MR. MOORE:

13 **Q.** Mr. Difani, I'm Steve Moore.

14 **A.** Good morning.

15 **Q.** My questions will be directed at your rebuttal
16 testimony, Exhibit Number 20. Calling your
17 attention to page 3, line 59, you state that the
18 company used a non-coincident allocation method to
19 allocate transmission cost. Is that correct?

20 **A.** That's correct.

21 **Q.** Now if the company totals up all the peak day
22 usage of its customers, that figure will always be

1 less than the total non-coincident peak of its
2 customers. Is that correct?

3 **A.** Assuming that there are no interruptible
4 customers, that would be correct. If there are
5 interruptible customers, the non-coincident peak
6 would be different than -- maybe I misunderstood
7 your question.

8 **Q.** Okay. Yeah. Let's assume for the moment that
9 the company has a total peak of 100 units on the
10 peak day in January.

11 **A.** Okay.

12 **Q.** If the company totals up the non-coincident
13 peak of all of its customers, that figure should
14 exceed 100 units. Isn't that correct?

15 **A.** It would meet or exceed that number, yes.

16 **Q.** Well, the only reason it would meet that would
17 be if every single customer happens to have a peak
18 day that is the same as every other customer's peak
19 day.

20 **A.** That would be correct.

21 **Q.** But under the non-coincident peak method, that
22 assumes that a customer's peak day could be any day

1 during the year. Is that correct?

2 **A.** Yes, that's correct.

3 **Q.** And let's assume for a moment that the total
4 non-coincident peak of all the company's customers
5 is 120 units, just for an assumption now. What
6 would the company design its transmission to meet,
7 100 or 120?

8 **A.** The company would use the 100 figure I would
9 imagine with a sufficient safety factor.

10 **Q.** Because that's the actual expected peak.

11 **A.** Because that's the actual expected peak.

12 MR. MOORE: Okay. I have no other questions.

13 MS. LUCAS: Okay.

14 CROSS EXAMINATION

15 BY MS. LUCAS:

16 **Q.** Good morning, Mr. Difani. My name is Julie
17 Lucas, and I represent the Citizens Utility Board.

18 **A.** Good morning.

19 **Q.** Hopefully I'll get your name right.

20 I'm going to ask you some questions first off
21 on your average and excess demand allocation
22 factors.

1 Mr. Difani, you testified that you weighted
2 average demands by 26 percent. Correct?

3 **A.** That's correct.

4 **Q.** And that is the system load factor. Correct?

5 **A.** That's correct.

6 **Q.** Is it proper to allocate some distribution
7 mains' costs on average demands?

8 **A.** There are several ways it can be done, and that
9 is certainly one of them, yes.

10 **Q.** And, in fact, you testify that you allocate 26
11 percent of demand costs on average demands, correct?

12 **A.** That is correct.

13 **Q.** The results of your allocation study are set
14 out in your Exhibit 9.4 to your direct testimony.
15 Correct? That's your gas cost of service allocation
16 study.

17 **A.** Those are my allocators, yes.

18 **Q.** Your allocators, correct.

19 May I approach the witness, Your Honor?

20 **Q.** Mr. Difani, I have what has been marked as CUB
21 Cross Exhibit 1.

22 JUDGE ALBERS: Do you have copies for everyone?

1 MS. LUCAS: Yes, I do.

2 (Whereupon CUB Cross Exhibit 1 was
3 marked for identification.)

4 Q. Now this exhibit, as you'll see, takes numbers
5 directly from your Exhibit 9.4, and I'd like you to
6 check the accuracy of the first three numbers, the
7 first line being the residential peak demand which
8 comes from your line 9, the general distribution
9 plant peak day residential allocation factor. Is
10 that correct?

11 A. That's correct.

12 Q. And the second line on CUB Cross Exhibit 1 is
13 the residential average demand which comes from line
14 18 of your Exhibit 9.4 under the residential
15 allocation factor. Is that correct?

16 A. That's correct.

17 Q. And the third line is the residential average
18 and excess demand which comes from line 11 under the
19 residential allocation factor of your Exhibit 9.4.
20 Correct?

21 A. That is correct.

22 Q. Do you have a calculator by any chance,

1 Mr. Difani?

2 **A.** Yes, I do.

3 **Q.** You came prepared. Could you -- on the next
4 line, could you multiply your residential peak
5 demand allocation factor which is .641699 and
6 multiply that by .998768, please.

7 MR. FLYNN: Objection. We're at the hearing
8 stage now. CUB is attempting to create a new
9 exhibit using data from a document that was filed in
10 November. It is not appropriate to ask the witness
11 at this point to engage in new calculations. CUB
12 had every opportunity to create this document itself
13 at numerous stages in this proceeding. To put the
14 witness on the spot now -- it's fine to take him
15 through calculations that he's done and ask him
16 about those. We verified some numbers. Now we're
17 going to have the witness conduct new -- perform new
18 calculations. There's no foundation that's been
19 established for what calculation is being performed,
20 why it's appropriate, or why it might be
21 inappropriate, or how it relates to the proceeding.
22 We're just jumping in and we're crunching numbers.

1 That's completely inappropriate at this stage.

2 MS. LUCAS: This actually isn't a new
3 calculation. I'm simply trying to illustrate -- I'm
4 trying to illustrate how Mr. Difani has weighted --
5 what the actual weighting is of his allocation
6 factors which is what, you know, his testimony and
7 his exhibits show, and actually it's not a new
8 calculation. It's simply an illustration of
9 different arithmetic.

10 MR. FLYNN: If it's not new, where was it
11 before?

12 JUDGE ALBERS: I'm sorry.

13 MR. FLYNN: I said if it's not a new
14 calculation, where was it before?

15 MS. LUCAS: Well, Mr. Difani claims that he
16 allocated -- that he weighted his peak demand --
17 that he weighted peak demand by 74 percent and
18 average demand by 26 percent, and this calculation
19 is meant to simply show that the true weighting is
20 closer to 99.9 percent and .1 percent respectively.

21 JUDGE ALBERS: I'm going to overrule the
22 objection. Proceed, Ms. Lucas.

1 MS. LUCAS: Thank you.

2 Q. And so I'm not sure if you got to that
3 calculation.

4 A. I'm working on it.

5 (Pause in the proceedings.)

6 Okay. I've done the first one. Did you want
7 me to proceed the same way with the second?

8 Q. So the first calculation resulted in .640908,
9 as indicated on the exhibit. Correct?

10 A. Yes.

11 Q. Yes, and if you could also do the similar
12 calculation for the .515081 average demand weighted
13 by .001232,

14 (Pause in the proceedings.)

15 A. That appears to be correct too.

16 Q. Thank you.

17 And if you total the two weighted numbers, the
18 peak demand and the average demand, the total weight
19 equals .641543. Is that correct?

20 A. Yes, it is.

21 Q. And that is the same number as your residential
22 average and excess demand allocation factor.

1 Correct?

2 **A.** I'm sorry. Could you repeat that?

3 **Q.** The total weight number in bold that you just
4 calculated at .641543, that is the same number as
5 your residential average and excess demand
6 allocation factor that was derived from your Exhibit
7 9.4. Correct?

8 **A.** Yes, it is.

9 **Q.** Thank you.

10 Therefore, your average and excess method of
11 allocation actually produces results that are
12 consistent with weighting peak demand by 99.9
13 percent and average demand by .1 percent
14 approximately. Correct?

15 **A.** I followed the methodology in the book. Now
16 then there may be other ways to get to that same
17 answer, and I wouldn't dispute that.

18 **Q.** Okay.

19 **A.** But the way I did it was using the average and
20 excess.

21 **Q.** Okay. Thank you.

22 I have one other line of questioning regarding

1 a precedent for peak and average demand allocation.
2 In your rebuttal testimony on page 10 you refer to
3 Mr. Galligan's proposed allocation of mains
4 investment as arbitrary. Correct? I think that's
5 on line 220, page 10.

6 **A.** My rebuttal?

7 **Q.** Right.

8 **A.** Yes, I do.

9 **Q.** And referring you to your surrebuttal testimony
10 on page 8, lines 155 to 156, you testify that
11 Mr. Galligan's 50/50 split of average and peak
12 demands is not advocated in any rate design manual
13 with which you are acquainted. Correct?

14 **A.** That's correct.

15 **Q.** Are you familiar with the Atlantic Seaboard
16 Method of Cost Allocation, Mr. Difani?

17 **A.** No, I'm not.

18 **Q.** Okay. Would you accept, subject to check, that
19 the Atlantic Seaboard Method of Cost Allocation was
20 adopted by the Federal Power Commission in 1952?

21 MR. FLYNN: Objection. The witness has already
22 indicated he's not familiar with the methodology.

1 Counsel has asked him to accept subject to check
2 which is not an inappropriate procedure in many
3 instances, particularly where it involves a
4 calculation or something that is readily checked. I
5 don't know how we would check what the Atlantic
6 Seaboard methodology is or who adopted it or in what
7 form or what we would do if we learned that it was
8 not exactly as represented by counsel. This is not
9 a simple -- does not appear to be a simple matter
10 like many of the matters that we commonly accept
11 subject to check to move the proceeding along.

12 MS. LUCAS: That's fine. I'll accept his
13 answer. I'll move on.

14 JUDGE ALBERS: Okay.

15 MS. LUCAS:

16 **Q.** Are you familiar with --

17 JUDGE ALBERS: In light of your objection, do
18 you still want a ruling?

19 MR. FLYNN: No. If the question is withdraw,
20 I'm content.

21 MS. LUCAS: I'll withdraw the question.

22 MR. FLYNN: As far as that goes.

1 MS. LUCAS:

2 Q. Are you familiar with the United Method of Cost
3 Allocation that was adopted by FERC in 1973?

4 MR. FLYNN: Objection to form. It assumes a
5 fact not in evidence.

6 MS. LUCAS:

7 Q. Are you familiar with the United Method of Cost
8 Allocation?

9 A. In 1973, no, I'm not.

10 Q. You're not familiar with anything called the
11 United Method of Cost Allocation?

12 A. No.

13 MS. LUCAS: That's all the questions I have.

14 JUDGE ALBERS: Okay. Any other questions then
15 for Mr. Difani?

16 Just one or two questions for you, sir.

17 EXAMINATION

18 BY JUDGE ALBERS:

19 Q. You and Mr. Iannello exchanged some testimony
20 regarding what treatment to give to storage plant
21 and related expenses. Is that correct?

22 A. That's correct.

1 **Q.** I'm just not 100 percent certain. Is there any
2 kind of agreement between you and Staff as to what
3 type of treatment to give those?

4 **A.** I think there's an understanding between for
5 propane for storage and gas inventory. We talked
6 about those to some degree and came up with an
7 understanding and agreement on how Mr. Iannello
8 thought that they should be allocated, and I think
9 that the company agreed with those -- that
10 methodology, and I redid my study according to that
11 method.

12 **Q.** Okay. So you and Mr. Iannello agree on how to
13 treat propane and storage related --

14 **A.** For this case.

15 **Q.** For this case.

16 **A.** We have an agreement, yes.

17 **Q.** Could you then at least give me a summary then
18 of what it is that is your understanding of what you
19 agreed to?

20 **A.** Sure, sure. Basically for propane and propane
21 plant we agreed that -- whenever I say we, the
22 company, agreed that propane plant was not used by

1 transport customers. That was basically on the
2 coldest day of the year when the transport customers
3 would be transporting their own gas or having their
4 own gas and they wouldn't be using the propane or
5 the propane plant, and so we agreed that we would
6 only allocate propane plant and the propane in
7 inventory to the sales customers.

8 Similarly, for the company-owned storage plant,
9 while that's used quite a bit throughout the year,
10 only a portion of that would be used by the
11 transport customers. And the other part, the
12 storage inventory, they would not be using any of
13 the storage inventory, so the transport customers
14 would not be allocated any of the storage inventory,
15 and that we would go ahead and devise rates,
16 separate rates for transport and for sales for each
17 class except residential.

18 **Q.** And in that last cost-of-service study that you
19 provided with your surrebuttal reflects that?

20 **A.** Yes, it does.

21 JUDGE ALBERS: Okay. Thank you.

22 Any redirect?

1 MR. FLYNN: No.

2 JUDGE ALBERS: No? Okay. Thank you,
3 Mr. Difani.

4 (Witness excused.)

5 MR. FLYNN: It's my understanding that
6 Ms. Smith is not here yet. Mr. Galligan is here,
7 and we're going to flip-flop.

8 Based on what's gone on this morning, if I
9 could have about fifteen minutes, I think I could
10 substantially reduce the amount of cross that I have
11 for both Mr. Galligan and Ms. Smith.

12 JUDGE ALBERS: Why don't we recess for fifteen
13 minutes, and we'll come back at 10:30.

14 MR. FLYNN: Thank you.

15 (Whereupon a short recess was taken.)

16 JUDGE ALBERS: Back on the record.

17 MS. LUCAS: Your Honor, I'd like to move for
18 the admission of CUB Cross Exhibit 1, please.

19 JUDGE ALBERS: Is there any objection?

20 MR. FLYNN: Same objection.

21 JUDGE ALBERS: Same objection? Given the
22 earlier ruling, CUB Cross Exhibit 1 is admitted.

1 (Whereupon CUB Cross Exhibit 1 was
2 received into evidence.)

3 MS. LUCAS: Thank you.

4 JUDGE ALBERS: And according to the witness
5 list, the next witness is Lee Smith.

6 MR. MOORE: And she has not arrived in town
7 yet, Your Honor. She planned to come in last night,
8 but got delayed by thunderstorms. She told me she
9 should be arriving in St. Louis at I believe it was
10 9:15, so we're probably looking 11:30, 12 o'clock.

11 JUDGE ALBERS: Okay. Shall we move on to
12 Mr. Galligan?

13 MS. LUCAS: Uh-huh. CUB calls Mr. Richard
14 Galligan.

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RICHARD A. GALLIGAN

called as a witness on behalf of the Citizens
Utility Board, having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY MS. LUCAS:

Q. Mr. Galligan, please state your full name and
business address for the record.

THE WITNESS:

A. My name is Richard Galligan. My business
address is Exeter Associates, 5565 Sterrett Place,
Columbia, Maryland 21044.

Q. Did you prepare written testimony for this
proceeding?

A. Yes, I did.

Q. For Docket Number 03-0008?

A. Yes, I did.

Q. I'd refer you to a document with the caption
Direct Testimony of Richard A. Galligan and ask that
this be marked as Exhibit 1. Does this consist of
23 pages of questions and answers?

1 **A.** Yes.

2 **Q.** Do you have any corrections or modifications to
3 this document?

4 **A.** Yes. I have three. The first two appear on
5 page 5.

6 **Q.** Okay.

7 **A.** Line 102, the words "coincident and" should be
8 struck. Same page, line 107, before the word
9 "coincident" insert "non-", and the last change is
10 on page 16. On line 362, the number "119" should be
11 "134".

12 **Q.** Is that all?

13 **A.** Yes.

14 **Q.** Is the information contained in your testimony
15 true and accurate to the best of your knowledge?

16 **A.** Yes.

17 **Q.** And you have attached three schedules to your
18 direct testimony marked RAG-1, RAG-2, and RAG-3.
19 Correct?

20 **A.** Yes, that's correct.

21 **Q.** Were these prepared by you or under your
22 supervision?

1 **A.** Yes, they were.

2 **Q.** And are each of these schedules identified and
3 described in your direct testimony?

4 **A.** Yes, they are.

5 **Q.** If I asked you the same questions set forth in
6 your direct testimony today, would your answers be
7 the same?

8 **A.** Yes.

9 **Q.** Now I'd like to refer you to a document that
10 has been marked CUB Exhibit 2.0 with the caption
11 Rebuttal Testimony of Richard A. Galligan. Does
12 this document consist of 11 pages of questions and
13 answers?

14 **A.** Yes, it does.

15 **Q.** Do you have any corrections or modifications to
16 this document?

17 **A.** No.

18 **Q.** Is the information contained in your rebuttal
19 testimony true and accurate to the best of your
20 knowledge?

21 **A.** Yes.

22 **Q.** You have attached three schedules to your

1 rebuttal testimony marked CUB Exhibit RAG-4, RAG-5,
2 and RAG-6. Correct?

3 **A.** Yes.

4 **Q.** And were these prepared by you or under your
5 supervision?

6 **A.** They were.

7 **Q.** And were each of these schedules identified and
8 described in your rebuttal testimony?

9 **A.** Yes.

10 **Q.** If I asked you the same questions set forth in
11 your rebuttal testimony today, would your answers be
12 the same?

13 **A.** Yes, they would.

14 MS. LUCAS: Thank you.

15 At this time I'd move for the admission of CUB
16 Exhibits 1.0, RAG-1, RAG-2, RAG-3, and CUB Exhibit
17 2.0, RAG-4, RAG-5, and RAG-6.

18 JUDGE BRODSKY: Have you submitted a version
19 with corrections for CUB 1?

20 MS. LUCAS: I have not yet. I can do that when
21 I get back to the office, a Revised CUB Exhibit 1.1.

22 JUDGE BRODSKY: Okay. So you can do that with

1 the hand-marking?

2 MS. LUCAS: I could do the hand-marking also.

3 JUDGE BRODSKY: With the corrections right
4 here.

5 MS. LUCAS: Okay.

6 JUDGE BRODSKY: Okay. So with that, is there
7 any objection to corrected 1.0 and its Schedules
8 RAG-1 through 3 and 2.0 and its Schedules RAG-4
9 through 6?

10 MR. MATRISCH: Staff has no objection.

11 JUDGE BRODSKY: Hearing none, then those will
12 be admitted subject to making the corrections and
13 subject to cross.

14 (Whereupon CUB Exhibit 1.0 Revised with
15 Schedules RAG-1, RAG-2, and RAG-3 and CUB
16 Exhibit 2.0 with Schedules RAG-4, RAG-5,
17 and RAG-6 were received into evidence.)

18 MS. LUCAS: I tender Mr. Galligan for cross.

19 MR. FLYNN: I have just a few questions this
20 morning.

21

22

1 CROSS EXAMINATION

2 BY MR. FLYNN:

3 Q. Mr. Galligan, hi. I'm Chris Flynn.

4 A. Good morning, Mr. Flynn.

5 Q. Good morning. I just wanted to talk to you
6 this morning about the customer charge. Now, the
7 company has made one customer charge proposal and
8 you've made a different proposal. Correct?

9 A. Yes.

10 Q. All right. And is it fair to say that the
11 costs that the company proposes to reflect in its
12 proposed customer charge include the depreciation
13 return and income taxes associated with meters and
14 services investment, the operation and maintenance
15 costs for meters and services, and the expenses
16 associated with meter reading and billing?17 A. Yes. One might characterize those costs as
18 inclusive of both the variable costs of customer
19 service and the fixed costs of customer service.20 Q. All right. So the answer is yes, that those
21 are the costs that the company has proposed to
22 reflect in the customer charge. Right?

1 **A.** Yes, sir.

2 **Q.** All right. You might characterize those as the
3 direct customer costs. Right?

4 **A.** Not to quibble, I would agree they're the fully
5 allocated, embedded, historical customer costs.
6 Some of them may be direct. Some of them certainly
7 are allocated.

8 **Q.** Okay. You propose to reflect in the customer
9 charge only a subset of those costs. Is that right?

10 **A.** No. My customer charge is substantially higher
11 than the avoided cost of being a customer.

12 **Q.** Well, we --

13 **A.** I proposed a customer charge of the current
14 \$9.50 level, and I believe identified about \$5.50,
15 \$5.52 as the customer costs, the variable customer
16 costs.

17 **Q.** Now we just went through the components of the
18 company's proposed charge. You recall that,
19 correct?

20 **A.** Yes, sir.

21 **Q.** And it's your testimony that your proposed
22 charge is substantially above the costs that the

1 company is proposing to reflect in the customer
2 charge?

3 **A.** No. It's my testimony that the customer charge
4 I've proposed, which is the current \$9.50 charge per
5 customer per month, is fully 70 percent above the
6 avoided cost of being a customer.

7 **Q.** Okay. Well, I didn't ask you about the avoided
8 costs yet, but let's --

9 **A.** I believe I was responsive to your question.

10 **Q.** Let's recap to see where we are.

11 **A.** It's not 70 percent above the customer defined
12 customer costs.

13 **Q.** Sir, we can argue, but then the judges will get
14 upset with us, so let's just do it question and
15 answer.

16 All right. Let's recap. Let's say there are
17 three types of costs that the company has proposed
18 to reflect in the customer charge. We've got the
19 depreciation return and income taxes on the
20 investment on meters and services. Right?

21 **A.** Correct.

22 **Q.** We're on board there. Secondly, you've got the

1 operation and maintenance costs for meters and
2 services. Is that right?

3 **A.** Yes, sir.

4 **Q.** And, third, you have the expenses associated
5 with meter reading and billing.

6 **A.** Yes.

7 **Q.** Now, you have proposed a customer charge --
8 well, let's back up. Let's do it this way. For
9 you, an ideal customer charge would consist of what
10 you term the avoided costs. Is that right?

11 **A.** That would be a meaningful basis on which to
12 start to determine what a customer charge should be.

13 **Q.** So those avoided costs consist of two
14 categories of costs, don't they? The operation and
15 maintenance costs for meters and services and the
16 expenses associated with meter reading and billing.
17 Is that right?

18 **A.** Yes, sir.

19 **Q.** Okay. So in that sense, the costs that you
20 believe would be a meaningful basis or starting
21 point for assessing what -- determining what an
22 appropriate customer charge should be are a subset

1 of the costs that the company proposes to reflect in
2 its customer charge. Right?

3 **A.** Yes, as you've just expressed.

4 **Q.** All right. Okay. And the category that you
5 don't include or you do not believe, to use your
6 terms, would -- just a second. I want to get your
7 words exactly right. The category of costs that you
8 believe would not present a meaningful price signal
9 to the customer, if you'd like a reference, it's
10 page 20 of your direct testimony, beginning at line
11 423. Are you there, sir?

12 **A.** Yes, I am.

13 **Q.** All right. The category of costs that you
14 don't believe would represent a meaningful price
15 signal to the customer is the depreciation return
16 and income taxes associated with the investment in
17 services and meters. Right?

18 **A.** Right. Those are neither variable costs and
19 hence they're not marginal costs, and for pricing
20 purposes very little information can be gathered
21 about the appropriateness, the value of the economic
22 price signal given by including those in the price.

1 **Q.** All right. And we're talking about a price
2 signal that's given to the customer.

3 **A.** Correct.

4 **Q.** And so we're talking about residential
5 customers to be clear.

6 **A.** I am here, yes.

7 **Q.** All right.

8 **A.** And I believe you have been, too, as we've been
9 going through the same line.

10 **Q.** That's correct. I just want to make sure we're
11 talking about the same thing.

12 Now, a price signal is, and you're the
13 economist, is the message that is provided to the
14 consumer regarding the effect of his -- the
15 consequences of his /her /its consumption decisions.
16 Right?

17 **A.** A price signal in the competitive market, which
18 is one universal standard of regulation, that
19 regulation should emulate what would happen in the
20 competitive market. A price signal in the
21 competitive market reflects the resource costs of
22 providing additional consumption, and so it's a very

1 meaningful price signal to consumers and it's a
2 meaningful price signal for efficiency of use of
3 those resources, the idea being if the consumer
4 isn't willing to pay the price of the additional
5 resources to provide the service, we would be in
6 some sense inefficient to go ahead and produce extra
7 units, and if the consumer is willing to pay those
8 prices, there's no reason not to produce another
9 unit as long as those prices, those marginal costs,
10 can be recovered in the price.

11 **Q.** Now, some price signals are effective and some
12 aren't. Some are less so. Right?

13 **A.** Can you explain?

14 **Q.** Well, all right. I'm going to pick on my poor
15 mother-in-law, and I'll give you an example. She
16 lives in an apartment in Brooklyn. She's lived in
17 the same apartment since 1957, and it's a master-
18 metered building for water and gas, so she gets no
19 separate water bill, no separate gas bill, and it's
20 not uncommon when she's cleaning her apartment to
21 leave her hot water running in her sink for an hour,
22 two hours, sometimes three. You would agree --

1 **A.** She's responding to the price signal that
2 there's zero price for additional consumption.

3 **Q.** Right.

4 **A.** That is kind of a meaningful response to that
5 price.

6 **Q.** Her response may be meaningful, but it's not
7 one that necessarily promotes efficiency.

8 **A.** No. If society incurs real, positive costs in
9 providing hot water and if we charge a price of
10 zero, it's a mismatch between the pricing that
11 reflects the additional resource it takes to produce
12 the hot water and the price that the consumer sees,
13 and you do get a misallocation of resources and
14 inefficiency in the nature of production.

15 **Q.** Now, which of the costs reflected in the CIPS
16 proposed customer charge changes if the customer
17 uses less gas?

18 **A.** Are we talking about customer costs or all the
19 costs on the system?

20 **Q.** The costs that are reflected in the CIPS
21 proposed customer charge. You remember those three
22 categories of cost?

1 **A.** Yes.

2 **Q.** All right. Which of those costs in those three
3 categories change?

4 **A.** I have estimated those by the proxy measure
5 that I've shown on Exhibit RAG-2.

6 **Q.** Okay. Well, let me ask you this. One category
7 of costs is investment -- effectively investment in
8 services and meters. Is that right?

9 **A.** In the company's cost determination, yes.

10 **Q.** All right. If I am a company customer and I
11 yell at my kids enough and I reduce my gas
12 consumption by 10 percent one month, does the
13 company's investment in services and meters
14 decrease?

15 **A.** No, sir.

16 **Q.** Okay. So there's no change in depreciation
17 return or income taxes associated with the services
18 and meters. Is that right?

19 **A.** From a little more consumption or a little less
20 consumption, correct. Those are fixed costs.

21 **Q.** Okay. Does the -- if I manage to reduce my
22 consumption by 10 percent in a month, do the

1 operation and maintenance costs for meters and
2 services change any meaningful way?

3 **A.** With that caveat on the end, the answer is
4 you're correct.

5 **Q.** All right. Again, if I reduce my gas
6 consumption by 10 percent in a month, would the
7 expenses associated with meter reading and billing
8 change?

9 **A.** No, sir.

10 **Q.** All right. The utility's investment in
11 services and meters to serve me is the same
12 regardless of my specific consumption level as a
13 residential customer. Is that right?

14 **A.** I'm sorry. Could I have that again?

15 **Q.** Well, I'm a residential customer.

16 **A.** Yes.

17 **Q.** Whether I'm wastrel and leave my windows open
18 with the heat on in the winter or whether I'm very
19 diligent about turning down the thermostat, the
20 company's investment in the service and the meter
21 that serves my residence is the same. Is that
22 right?

1 **A.** Not in the short run. We heard Mr. Carls this
2 morning discuss your customer extension rules, and
3 he said explicitly that before you'll extend
4 service, incur the resource cost for a large
5 customer, you do a revenue test to see that the
6 resources that you're going to invest in service
7 will likely earn a return from the anticipated
8 revenues. Similarly, the 200 feet maintenance --
9 the 200 feet extension allowance that he mentioned
10 for residential customers, it's my experience that
11 all gas companies I've looked at have grounded those
12 customer extension service rules, including that
13 footage, in cost of service studies. In other
14 words, they're not just pulled out of the air.
15 They're based on an analysis of the kind of gas
16 consumption that will take place, and it warrants
17 that kind of, for simplicity, average extension per
18 foot. So in the longer run, when you say I've got a
19 customer who doesn't use any gas and another one who
20 is profligate in the use of gas, in the longer run
21 you wouldn't extend service to a customer who has no
22 need for gas and one who used gas and wouldn't be

1 connected. So that's just a way of saying you have
2 customers out there and they tend to look like the
3 average give or take a little bit. Customers with
4 heating use a whole lot more gas over the course of
5 the year, some more or less than others, and non-
6 heating customers use it for cooking and maybe hot
7 water heating, clothes drying. You've got average
8 customers. Some of them use a little more than
9 others.

10 **Q.** Well, let's go over that. So if I this winter
11 institute the Flynn family will wear a sweater
12 program and our gas consumption goes down, you're
13 saying that they'll swap out my meter and put in a
14 less expensive meter because we use less gas?

15 **A.** No, sir. I did not say that.

16 **Q.** All right. Are you saying that they will dig
17 up the service that runs from the street to my house
18 and replace it with some less expensive, smaller
19 service?

20 **A.** No, and that's why I didn't include it in my
21 calculation of avoided cost because that's a fixed
22 cost.

1 **Q.** Right. And those costs remain the same
2 regardless of my specific level of usage as a
3 residential customer.

4 **A.** Yes, sir.

5 **Q.** All right. And that's true in both the short
6 and the long run, isn't it?

7 **A.** No, sir.

8 **Q.** All right.

9 Now, the costs that you refer to as the fixed
10 costs, the investment in the services and the
11 meters, if those costs aren't picked up in the
12 customer charge, then they have to be picked up in
13 some other charge that's assessed to customers. Is
14 that right?

15 **A.** Given the revenue requirement of the
16 residential class, yes.

17 **Q.** And the charges that these costs would be
18 shifted to for recovery would be the volumetric
19 rates that are charged to customers. Is that right?

20 **A.** When you say shifted, there are only two
21 elements to the residential rate.

22 **Q.** Right.

1 **A.** The fixed customer charge and the usage charge.

2 **Q.** Okay.

3 **A.** And if they're not recovered in one of the
4 charges, they would be recovered in the second, in
5 this case the volumetric charge.

6 **Q.** And thus -- and the volumetric charges send a
7 price signal to customers too, don't they?

8 **A.** Just as the fixed charge, fixed customer
9 charge, yes, sir.

10 **Q.** Okay. And the volumetric rates then -- well,
11 one attribute of a volumetric rate is that if a
12 customer consumes less, it pays less. The customer
13 pays less. Right?

14 **A.** Yes.

15 **Q.** All right. So that the customer can avoid
16 costs by using less gas. Right?

17 **A.** Yes.

18 **Q.** Can the utility -- we've already discussed how
19 the utility can't avoid the costs in the service and
20 the meter simply because the residential customer
21 uses a little less gas. Is that right?

22 **A.** Correct.

1 **Q.** Let's say that I'm a gas customer -- I'm sorry
2 -- I'm an electric customer, and I don't have gas
3 service, although I'm located near a main and within
4 the free connection zone under the new connections
5 rule.

6 **A.** You might even be a customer, all electric
7 customer between two gas customers on each side of
8 you?

9 **Q.** Could be.

10 **A.** Okay.

11 **Q.** Could be. I've got a grill out on my deck and
12 it's propane and I love it and I can wheel it
13 around, but I'm really sick and tired of hauling the
14 propane canister back to Home Depot every once in a
15 while, and I've got my eye on a brand-new, zillion
16 dollar Viking natural gas-fired grill that I can't
17 wait to install. So now I call up the gas company
18 because I want service, and I'm not going to use a
19 lot. I'm just going to fire my grill, and I'm told
20 that the -- is a customer charge that does not
21 reflect those fixed costs of investment, the service
22 and the meter, the investment in the service and the

1 meter, is it still your testimony that the customer
2 charge that does not send -- that does not include
3 those costs sends to me, a prospective new customer,
4 a meaningful price signal that promotes efficiency?

5 **A.** Yes. You have only one customer extension
6 policy. If you're in the business of connecting up
7 people who only want a gas light or a gas grill, and
8 that's the way your extension policy tariff reads,
9 in the long run that's what you're going to have to
10 do if that's how you define extensions. Once you've
11 connected that customer, then the avoided costs
12 associated with that customer are as I've identified
13 on Exhibit RAG-2.

14 **Q.** Now, the extension policy is the Commission's
15 policy. Is that right? To the best of your
16 knowledge?

17 **A.** I would expect that the Illinois Commission,
18 among other things, has authorized and approved your
19 extension policy, as it has every other item in your
20 tariff.

21 **Q.** All right. The Commission doesn't have a rule
22 to your knowledge that requires that customer

1 charges be based on the avoided cost as you've
2 defined it. Correct?

3 **A.** To my knowledge, that's correct.

4 **Q.** All right.

5 **A.** Neither do they have a rule that it should be
6 based on the fully allocated, average, embedded
7 historic costs.

8 MR. FLYNN: I move to strike the last part of
9 the answer. I mean I have been fairly tolerant with
10 the witness, but that was gratuitous.

11 JUDGE BRODSKY: That will be granted.

12 MR. FLYNN: That's all the questions I have.

13 JUDGE BRODSKY: Is there any other cross?

14 EXAMINATION

15 BY JUDGE ALBERS:

16 **Q.** Mr. Galligan, just to be clear, the fact that
17 you haven't taken any position on any of UE's
18 proposed rates, does that -- that doesn't mean to
19 suggest that you're endorsing their proposal
20 entirely?

21 **A.** Correct. I have not reviewed the UE rates.

22 **Q.** Any particular reason? Or just weren't asked

1 to?

2 **A.** Just wasn't asked to.

3 **Q.** Okay. With regard to Staff witness Lazare's
4 recommendation to eliminate entirely the declining
5 block rate structure for residential customers, do
6 you oppose that recommendation?

7 **A.** No.

8 MR. FLYNN: Your Honor, may I interject a
9 point? And I do this with tremendous reluctance,
10 but as the bench is aware, there was a late filing
11 made by Staff earlier in this proceeding which
12 purported to -- attempted to comment on other
13 parties' testimony and introduce new opinions that
14 the company had not had an opportunity to address
15 and respond to, and we moved to strike that material
16 on the grounds that it was a violation of the
17 schedule and of the fundamental principles of due
18 process.

19 I know that it is customary for the bench to
20 ask witnesses to comment on various matters
21 particularly, and I'm entirely sympathetic the bench
22 has various issues to address and explain to the

1 Commission. Mr. Galligan has not to my knowledge
2 previously expressed a view on the Staff's proposed
3 elimination of the tiered rate structure. To the
4 extent that the bench elicits such an opinion now,
5 the company would have no opportunity to comment on
6 the specific reasons that the witness may have for
7 supporting or opposing the elimination of the tiers
8 and in our view would similarly constitute the
9 violation of our due process rights to open and
10 close the evidence in this case.

11 This is an issue that may continue to arise
12 over the remainder of this proceeding, but at this
13 point we object to the elicitation of additional
14 testimony from the witness with respect to issues in
15 this case on which he has not prefiled his testimony
16 and with respect to which the company has had no
17 opportunity to submit its own evidence.

18 JUDGE ALBERS: I and I am sure Mr. Brodsky both
19 would agree that we both understand your concerns.
20 However, we're in the position of having to address
21 what the Commission would be interested in, and, as
22 I'm sure you're aware, these types of questions have

1 been asked in prior proceedings.

2 MR. FLYNN: Well, I note my objection for the
3 record, and I won't -- to the extent that it is
4 prolonged interrogation, I won't interrupt with
5 continued objections, but I would note my objection
6 to the entire line of questioning so that it might
7 proceed.

8 JUDGE ALBERS: I don't think it will be
9 prolonged, if that's any consolation to you.

10 MR. FLYNN: I don't know yet.

11 JUDGE ALBERS:

12 **Q.** Do you recall the question, sir?

13 **A.** Yes, I do.

14 **Q.** Okay.

15 **A.** There are some parts of my testimony that speak
16 to the issue of blockage. For example, on page 21
17 of my testimony, specifically at lines 439 through
18 447, I explain that the kind of cost study that the
19 company has done, this average, historic, embedded
20 cost study, is not formatted to even yield
21 information on the cost of providing therms in
22 different usage ranges, such as 0 to 50 which is

1 their current first block, 50 to 90, and so forth.
2 So there's no cost basis, in my opinion, for the
3 blockage that the company now has or that it
4 proposes that can be gleaned from cost evidence in
5 this case.

6 **Q.** All right. Let me go at it this way. As far
7 as the general principle goes, do you oppose the
8 concept of a flat rate for residential customers?

9 **A.** No, I do not.

10 JUDGE ALBERS: Okay. That's all I was trying
11 to get at. That's all I had. Thank you.

12 JUDGE BRODSKY: I have a question for you.

13 EXAMINATION

14 BY JUDGE BRODSKY:

15 **Q.** Speaking to the price signals, you indicated
16 that there's a price signal that customers derive
17 from the fixed cost and from the variable cost, or
18 the volumetric cost. Are these essentially a zero
19 sum signal to the customer?

20 **A.** No, they are not. If you load up on the
21 inelastic portions of the service that you provide
22 to the customer, like the customer charge, like that

1 first block, and, as Mr. Flynn and I discussed, you
2 haven't given revenue (inaudible) for the
3 residential customers, then out of the three degrees
4 of freedom, the only other element in price is the
5 tailblock rate, and if you load up on the customer
6 charge, load up on that first block by increasing
7 its price substantially more than the tailblock as
8 the company has proposed and by increasing by 80
9 percent the amount of usage that could qualify for
10 that first block, then surprisingly, not
11 surprisingly, excuse me, the tailblock rate
12 represents a steeper discount than it otherwise
13 would.

14 Now, when consumers are deciding should I
15 consume a little more or a little less, it's the
16 middle of January and they're a little chilly at 68
17 degrees and they're wondering should they slip the
18 thermostat up to 70, if you have a very low
19 tailblock rate, the answer may very well be, yes, as
20 a consumer, I'm going to consume more heat at that
21 favorable price. If you didn't load up on the
22 customer charge in the first block so much, that

1 tailblock rate would be higher, increasing the cost
2 consequences to the consumer of making that decision
3 at the margin of where to set that thermostat. So
4 it's not -- it's a zero sum game in terms of the
5 whole residential class. It's not a zero sum game
6 in terms of individual customers, and it's certainly
7 not a zero sum game in terms of influencing customer
8 behavior.

9 **Q.** Okay. So what message might customers take
10 away, speaking only to the fixed cost component?

11 **A.** To which one?

12 **Q.** Only the fixed cost, or the customer charge
13 component.

14 **A.** The customer would look at that high fixed
15 charge which the company is proposing at 11.70
16 compared to it's current 9.50 rate per month. First
17 of all, realize that that diminishes the customer's
18 ability to affect his total bill for energy
19 services. Wonder why that charge is there compared
20 to all the myriad items, the customer services the
21 customer may buy in the competitive marketplace,
22 where you don't pay \$11.70 for the privilege of

1 going in your grocery store periodically to buy more
2 or less groceries. Wonder why that charge continues
3 if service is interrupted. So that charge has I
4 think real implications for the customer.

5 JUDGE BRODSKY: Redirect?

6 MS. LUCAS: No redirect.

7 JUDGE BRODSKY: Thank you.

8 (Witness excused.)

9 THE WITNESS: Thank you.

10 JUDGE ALBERS: In the absence of Ms. Smith,
11 perhaps we can go to Mr. Dannahy next.

12 MR. BYRNE: Could we go off the record for a
13 second?

14 JUDGE ALBERS: Sure. Off the record.

15 (Whereupon at this point in the
16 proceedings an off-the-record discussion
17 transpired, during which CUB Exhibit 1.0
18 Revised and AmerenCIPS /UE Exhibit 19.2
19 were marked for identification.)

20 JUDGE BRODSKY: Back on the record.

21 MR. BYRNE: Yes, Your Honor. The next Ameren
22 witness is Dan B. Dannahy, and the parties and the

1 ALJs have indicated that none of them have questions
2 for Mr. Dannahy, so we would propose to offer his
3 prefiled testimony in under affidavit rather than
4 have him take the witness stand, and so I guess with
5 that I would like to offer AmerenUE Exhibits 8.0,
6 8.1, 8.2 and 8.3 which is his direct testimony in
7 the AmerenUE case, as well as AmerenCIPS Exhibits
8 8.0, 8.1, 8.2, and 8.3 which is his direct testimony
9 in the AmerenCIPS case, and then his rebuttal
10 testimony which is AmerenCIPS /UE Exhibit Number
11 19.0 and it has an attached schedule that is just
12 AmerenCIPS Exhibit 19.1, and then, finally, I would
13 offer the affidavit for all the testimony which has
14 been marked AmerenCIPS /UE Exhibit 19.2.

15 JUDGE ALBERS: Any objection?

16 MS. BUELL: Staff has no objection.

17 MR. CLARKE: No objection.

18 MR. MOORE: No objection.

19 MS. LUCAS: No objection.

20 JUDGE ALBERS: Hearing no objection, then the
21 aforementioned exhibits will be admitted.

22 (Whereupon AmerenUE Exhibits 8.0, 8.1,

1 8.2, and 8.3, AmerenCIPS Exhibits 8.0,
2 8.1, 8.2, and 8.3, AmerenCIPS/UE Exhibits
3 19.0 and 19.2, and AmerenCIPS Exhibit
4 19.1 were received into evidence.)

5 JUDGE ALBERS: And, again, just send that
6 original affidavit directly to me and I'll take care
7 of getting that to the Clerk's Office.

8 MR. BYRNE: Thank you, Your Honor.

9 JUDGE ALBERS: Okay.

10 Off the record.

11 (Whereupon at this point in the
12 proceedings an off-the-record discussion
13 transpired.)

14 JUDGE ALBERS: Back on the record.

15 Our next witness will be Staff witness Bowers.

16 MS. BUELL: That's correct. Staff calls
17 Carolyn L. Bowers to the stand.

18 JUDGE BRODSKY: Ms. Bowers, were you sworn this
19 morning?

20 MS. BOWERS: No, I was not.

21 JUDGE BRODSKY: If you could stand, please.

22 MS. BOWERS: Certainly.

1 (Whereupon the witness was sworn by Judge
2 Brodsky.)

3 JUDGE BRODSKY: Thank you.

4 **CAROLYN L. BOWERS**

5 called as a witness on behalf of the Staff of the
6 Illinois Commerce Commission, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. BUELL:

10 **Q.** Good morning.

11 THE WITNESS:

12 **A.** Good morning.

13 **Q.** Would you please state your full name for the
14 record?

15 **A.** Carolyn L. Bowers.

16 **Q.** Ms. Bowers, who is your employer and what is
17 your business address?

18 **A.** My employer is the Illinois Commerce
19 Commission. My address is 527 East Capitol Avenue,
20 Springfield, Illinois 62701.

21 **Q.** And what is your position at the Illinois
22 Commerce Commission?

1 **A.** I am an accountant in the Accounting Department
2 of the Financial Analysis Division.

3 **Q.** Ms. Bowers, did you prepare written exhibits
4 for submittal in this proceeding?

5 **A.** Yes, I did.

6 **Q.** Do you have before you a document which has
7 been marked for identification as ICC Staff Exhibit
8 2.0 which consists of five typewritten pages and one
9 attached schedule and is titled Direct Testimony of
10 Carolyn L. Bowers?

11 **A.** I do.

12 **Q.** And do you also have before you a document
13 which has been marked for identification as ICC
14 Staff Exhibit 16.0 which consists of four
15 typewritten pages and three attached schedules and
16 is titled Second Revised Rebuttal Testimony of
17 Carolyn L. Bowers?

18 **A.** I do.

19 **Q.** And did you prepare these documents for
20 presentation in this matter?

21 **A.** Yes, I did.

22 **Q.** Do you have any additions or corrections to

1 make to either document?

2 **A.** No.

3 **Q.** Is the information contained in ICC Staff
4 Exhibits 2.0 and 16.0 true and correct to the best
5 of your knowledge?

6 **A.** Yes.

7 **Q.** And if I were to ask you the same questions
8 today, would your responses be the same?

9 **A.** Yes.

10 MS. BUELL: Your Honors, I move for admission
11 into evidence ICC Staff Exhibits 2.0 and 16.0,
12 including their attached schedules, and I note for
13 the record that these are the same documents that
14 were filed via e-Docket on April 2nd and June 23,
15 2003, respectively.

16 JUDGE BRODSKY: Is there any objection?

17 MR. BYRNE: No, Your Honor.

18 JUDGE ALBERS: Ms. Buell, did you say there
19 were four attached schedules to the rebuttal?

20 MS. BUELL: No, I did not. I said there were
21 four typewritten pages and three attached schedules.

22 JUDGE ALBERS: Okay. Thank you. I misheard

1 you.

2 JUDGE BRODSKY: There being no objection, then
3 those exhibits will be admitted subject to cross.

4 (Whereupon ICC Staff Exhibits 2.0 and
5 16.0 were received into evidence.)

6 JUDGE BRODSKY: Who wishes to proceed?

7 MR. CLARKE: The People will go.

8 CROSS EXAMINATION

9 BY MR. CLARKE:

10 **Q.** Good morning, Ms. Bowers. My name is Randy
11 Clarke. I'm an attorney with the Illinois Attorney
12 General's Office, and I have a few questions for you
13 concerning your direct testimony in this case.

14 **A.** Good morning.

15 **Q.** To begin, directing your attention to page 2 of
16 your direct testimony, which is Staff Exhibit 2,
17 would you agree that your testimony presents Staff's
18 original cost determination for the Ameren
19 Companies?

20 **A.** Did you say direct? I'm sorry.

21 **Q.** Yes, your direct testimony.

22 **A.** Apparently I'm in a different place than you

1 are.

2 **Q.** Okay. Let me check my reference. Oh, I'm
3 sorry. The reference I'm making appears on page 1,
4 lines 17. I'm just simply asking about the purpose
5 of your testimony, and is it your testimony that the
6 purpose of your testimony is to present Staff's
7 original cost determination for the Ameren
8 Companies?

9 **A.** Yes.

10 **Q.** Would you further agree that in your testimony
11 you have proposed no modifications to the adjustment
12 to plant in service for post test year additions
13 that has been proposed by the Ameren Companies?

14 **A.** I had not, no.

15 **Q.** Now, assuming, if you will, that the best
16 evidence in this proceeding demonstrates that the
17 prospective net plant in service will be less than
18 the net plant in service at the end of the test
19 year, in such a case, would it be your opinion that
20 it would be appropriate to adjust the plant in
21 service at the end of the test year for post test
22 year plant additions if such an adjustment would

1 result in a net plant -- if such an adjustment would
2 result in net plant in rate base being greater than
3 the net plant at the end of the test year?

4 MR. BYRNE: Your Honor, I'm going to object to
5 the question. I've got three reasons that I would
6 object to the question.

7 The first reason is this is friendly
8 cross-examination which is not permitted in
9 Commission proceedings, which regularly is not
10 permitted. The Attorney General is simply trying to
11 get endorsement of his own position from a friendly
12 Staff witness, and that's not permissible.

13 Second, I would object on the grounds that it's
14 outside the scope of Ms. Bowers' testimony. She did
15 not, you know, testify to the same matter that the
16 Attorney General has provided testimony.

17 And, third, I would object on the grounds that
18 this does nothing more than circumvent the order of
19 the ALJs that was issued last week when Ms. Bowers
20 and when the Staff attempted to change their
21 rebuttal testimony to incorporate this change, and
22 at the time we argued that that would unfairly

1 deprive us of an opportunity to respond if she at
2 the last minute presented additional evidence in
3 support of that Attorney General position. This is
4 a position that's never been adopted by the
5 Commission before. It's a position that Staff has
6 never adopted. It's a position, among others, which
7 would reduce the recommendation of the Staff by 25
8 percent, and we believe making a change like -- we
9 believed at the time when they attempted to file
10 corrected rebuttal testimony that that change would
11 work substantial prejudice against the company. It
12 would violate our due process right to respond, and
13 in the order the ALJs accepted our argument that
14 that testimony should be stricken. It's even worse
15 if Ms. Bowers is permitted to provide that testimony
16 through friendly cross on the witness stand. So we
17 object to this line of questioning and any other
18 questions that the Attorney General tries to get
19 Ms. Bowers to support their adjustment.

20 MR. CLARKE: Your Honors, I respond, first of
21 all -- well, I'll respond to the points in order.

22 With regard to the friendly nature of this

1 cross, the People are aware of motion practice that
2 took place earlier in this proceeding where certain
3 documents were stricken or were excluded from the
4 record, and as a result of those documents being
5 stricken, the opinions put forth in this witness's
6 testimony are what are contained in the direct
7 testimony and the rebuttal testimony. Those
8 opinions differ from the Attorney General's
9 positions to the tune of well in excess of a million
10 dollars. For that reason, we don't consider Staff's
11 position on these issues, particularly on the post
12 test year plant addition issues, to be friendly to
13 our position. The People would like to see that
14 amount of money or the difference, which is in
15 excess of a million dollars, remain with the
16 customers and ratepayers. So because of that
17 difference we don't see Staff's position as
18 friendly, so I don't consider this to be friendly
19 cross.

20 We would like to ask the witness questions
21 about the basis of her opinion because it relates to
22 the weight given to the People's position and to the

1 Staff witness's position. The questions I'm asking
2 are not outside the scope of this witness's
3 testimony. This witness has testimony -- has
4 testified directly on the issue of post test year
5 plant additions, and for similar reasons to the
6 first point I made regarding friendly cross, this
7 isn't an attempt to circumvent a Commission order.
8 As a result of that Commission order, a significant
9 difference exists between the People's position and
10 the Staff's position, and my question is an attempt
11 to probe the underlying basis for that difference.

12 MR. BYRNE: If I could respond, you know, Your
13 Honor, there has been a procedural schedule set up
14 where the Staff had a multi-month audit, you know,
15 probably five or six-month audit of our company.
16 They filed prefiled direct testimony. They set out
17 their position as it's in their written testimony.
18 The Attorney General filed their testimony, and the
19 Staff had an opportunity to respond to that. They
20 still took the same position that they had before,
21 and of course that was the basis on which we
22 conducted our discovery, and it does matter. You

1 know, there are any number of things, any number of
2 discovery items that we want to pursue when the
3 Staff so radically changes their position. You
4 know, I think it's just absolutely unfair to allow
5 that kind of testimony to come in when all of our
6 witnesses almost have testified, you know, and left
7 the stand, when there's no opportunity to conduct
8 discovery as to, you know, why the Staff might
9 change their position and reduce their
10 recommendation by 25 percent at the last minute. We
11 just have no opportunity to respond at all. We have
12 no opportunity to conduct discovery, and it's a
13 complete violation of our due process rights.

14 MS. BUELL: Your Honors, would it be
15 permissible, since this is my witness, for me to
16 weigh in on the subject as well?

17 JUDGE BRODSKY: Go ahead.

18 MS. BUELL: I would reiterate Mr. Clarke's
19 arguments with respect to this objection. Also, I
20 wanted to add one thing for the record, and that is
21 several weeks ago a hearing was held in Docket
22 Number 02-0837 which is the CILCO rate case, and in

1 that case the AG also offered the testimony of
2 Mr. Effron, and at that hearing Staff witness Bonnie
3 Pearce was asked by counsel for the AG what her
4 opinion was with respect to Mr. Effron's testimony,
5 and counsel for CILCO raised a similar objection and
6 ALJ Wallace overruled that objection and Staff
7 witness Pearce did answer the question, and so I
8 think there is some precedent for Staff witness
9 Bowers to respond to the AG's questions in this
10 proceeding as well.

11 JUDGE BRODSKY: Do you want to respond?

12 MR. BYRNE: Can I respond to that? I believe
13 that's a mischaracterization of what happened in the
14 CILCO case. I was there. I wasn't one of the
15 lawyers, but my recollection is that the Staff was
16 not -- it was not friendly cross-examination in that
17 the Staff did not ultimately support the Attorney
18 General's position in that case. The Staff witness
19 ended up testifying she didn't know or whatever.

20 This is a completely different situation.
21 Again, they've had opportunity after opportunity,
22 months and months and months of opportunity to

1 develop this position, and to sit here on the third
2 day of hearing and say we're radically going to
3 change our position is completely unfair.

4 MR. CLARKE: Your Honors, may I briefly add one
5 comment?

6 JUDGE BRODSKY: Briefly.

7 MR. CLARKE: I'd like to point out that this
8 has obviously touched on a point of contention. My
9 question is limited. My question doesn't involve
10 recalculating Staff's entire position. My question
11 merely asks for the opinion of a witness offered as
12 an expert on the subject, and it's the only question
13 I have.

14 MR. BYRNE: It's friendly cross-examination.
15 It's asking her to support his position, which he
16 knows she'll probably do. It's the definition of
17 friendly cross-examination.

18 JUDGE BRODSKY: Would you read us the original
19 question?

20 (Whereupon the requested portion of the
21 record was read back by the Court
22 Reporter.)

1 JUDGE BRODSKY: The objection is sustained.

2 MR. CLARKE: The People have nothing further.

3 MR. BYRNE: I have no questions for this
4 witness.

5 JUDGE BRODSKY: Did you have anything?

6 MR. MOORE: I have no questions.

7 MS. BUELL: And I have no redirect.

8 JUDGE BRODSKY: Okay. Thank you.

9 (Witness excused.)

10 MR. MATRISCH: Your Honors, if it's
11 permissible, we're going to call Mr. Iannello. I
12 understand his cross-examination is very brief.

13 JUDGE BRODSKY: That's fine. Mr. Iannello,
14 were you sworn this morning?

15 MR. IANNELLO: No.

16 (Whereupon the witness was sworn by Judge
17 Brodsky.)

18 JUDGE BRODSKY: Thank you.

19

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21

22

CHARLES S. C. IANNELLO

called as a witness on behalf of the Staff of the Illinois Commerce Commission, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MATRISCH:

Q. Good morning. Would you please state your full name for the record?

THE WITNESS:

A. Charles Christian Salvatore Iannello.

Q. Who is your employer and what is your business address, please?

A. My employer is the Illinois Commerce Commission. My business address is 527 East Capitol Avenue, Springfield, Illinois 62701.

Q. And what is your position at the Illinois Commerce Commission?

A. I'm an economic analyst in the Policy Program of the Energy Division.

Q. Mr. Iannello, did you prepare written exhibits for submittal in this proceeding?

A. Yes.

1 **Q.** You have before you a document which has been
2 previously marked for identification as ICC Staff
3 Exhibit 5.0 which consists of 25 typewritten pages
4 and there is an attached Exhibit 5.1 and it is
5 titled the Direct Testimony of Charles C. S.
6 Iannello.

7 **A.** Yes.

8 **Q.** Did you prepare this document?

9 **A.** Yes.

10 **Q.** You also have before you a document which has
11 been marked for identification as ICC Staff Exhibit
12 12.0 Corrected which consists of 13 typewritten
13 pages and is titled the Rebuttal Testimony of
14 Charles C. S. Iannello. Did you prepare this
15 document as well?

16 **A.** Yes.

17 **Q.** Do you have any additions or corrections to
18 make to ICC Staff Exhibit 5.0 or 12.0?

19 **A.** No.

20 **Q.** Is the information contained in ICC Staff
21 Exhibit 5.0 and 12.0 true and correct to the best of
22 your knowledge?

1 **A.** Yes.

2 **Q.** If I were to ask you the same questions today
3 as are set forth in ICC Staff Exhibit 5.0 and 12.0,
4 would your responses be the same?

5 **A.** Yes.

6 MR. MATRISCH: Your Honor, at this time I'd
7 move for admission into evidence ICC Staff Exhibit
8 5.0 and 12.0, including the attached Exhibit 5.1. I
9 note that these documents are the same as were filed
10 on e-Docket on April 2nd and June 6, 2003.

11 Mr. Iannello is tendered for cross.

12 JUDGE BRODSKY: Is there any objection?

13 MR. FITZHENRY: No objection.

14 MR. CLARKE: No objection.

15 JUDGE BRODSKY: Then these exhibits are
16 admitted subject to cross.

17 (Whereupon ICC Staff Exhibits 5.0, 5.1,
18 and 12.0 were received into evidence.)

19 JUDGE BRODSKY: Please proceed.

20

21

22

CROSS EXAMINATION

BY MR. FITZHENRY:

Q. Good morning, Mr. Iannello. Let me ask you to look at your rebuttal testimony, page 6, specifically lines 75 through 79. I'll give you a chance to look at that, and there you state that you agree with the concept of reallocating storage plant and related expenses to reflect the limited access to storage that transportation customers receive relative to sales customers. Is that correct?

A. Yes.

Q. Did you have an opportunity to review the surrebuttal testimonies of Ameren witnesses Dottie Anderson and Phil Difani?

A. Yes.

Q. You understand in reviewing their testimonies that they attempted to meet your concerns in terms of the allocation of storage plant related expenses to transportation customers?

A. Yes.

Q. Do you agree that the allocation they proposed in their surrebuttal testimony is consistent with

1 the concept that you've outlined here in your
2 rebuttal testimony at lines 75 through 79?

3 **A.** Yes.

4 **Q.** And you're in agreement with that allocation?

5 **A.** Yes.

6 MR. FITZHENRY: Thank you, sir. That's all the
7 questions I have.

8 MR. MATRISCH: No redirect.

9 JUDGE ALBERS: I just have one more clarifying
10 question.

11 So you've withdrawn your recommendation
12 regarding delivery requirements and limitation on
13 bank withdrawals?

14 **A.** Yes.

15 JUDGE ALBERS: Okay.

16 And you said no redirect?

17 MR. MATRISCH: No redirect, Your Honor.

18 JUDGE BRODSKY: Thank you.

19 (Witness excused.)

20 MR. MOORE: Off the record.

21 (Whereupon at this point in the
22 proceedings an off-the-record discussion

1 transpired.)

2 JUDGE ALBERS: Back on the record.

3 JUDGE BRODSKY: Please stand.

4 (Whereupon the witness was sworn by Judge
5 Brodsky.)

6 JUDGE BRODSKY: Thank you.

7 **LEE SMITH**

8 called as a witness on behalf of Business Energy
9 Alliance and Resources, having been first duly
10 sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MOORE:

13 **Q.** Could you please state your name?

14 THE WITNESS:

15 **A.** Lee Smith.

16 **Q.** And by whom are you employed?

17 **A.** I work for LaCapra Associates in Boston,
18 Massachusetts.

19 **Q.** And I show you what has been marked for
20 identification as BEAR Exhibit 1 titled Direct
21 Testimony of Lee Smith on Behalf of Business Energy
22 Alliance and Resources consisting of 12 pages of

1 testimony and two exhibits marked LS-1 and LS-2.

2 Did you prepare this testimony and these exhibits?

3 **A.** Yes, I did.

4 **Q.** And to the best of your knowledge are they true
5 and correct?

6 **A.** Yes.

7 **Q.** And do you have any changes to Exhibit 1, BEAR
8 Exhibit 1?

9 **A.** Yes, I have just several changes. On page 3,
10 line 18, it reads: "Moreover, delivery costs" and
11 "costs" should be stricken. It should say:
12 "Moreover, delivery rates".

13 JUDGE BRODSKY: Where was that at, please?

14 **A.** Line 18.

15 On page 5, I just think it would be clearer if
16 on line 2 the sentence begins: "It implies that when
17 the customer", that "the customer" should be
18 preceded by the word "interruptible".

19 On line 13, at the end of that sentence on line
20 13, "when supplies are tight", I would like to add
21 the phrase "and distribution pressures are low."

22 MR. FLYNN: I'm sorry. I've lost the

1 reference. I don't mean to interrupt you.

2 **A.** Okay. Page 5, line 13, the sentence ends "when
3 supplies are tight", and I would like to insert "and
4 distribution pressures are low."

5 Page 10, line 17, there's a sentence that
6 begins: "The resulting demand", and "demand" should
7 be struck.

8 That's all the changes.

9 **Q.** And with these changes, if asked these
10 questions, would you give these answers today?

11 **A.** To Exhibit 1.

12 **Q.** To Exhibit 1.

13 **A.** Yes, that is correct.

14 **Q.** Now I show you what has been marked for
15 identification as BEAR Exhibit 2 consisting of six
16 pages of questions and answers and identified as
17 Rebuttal Testimony of Lee Smith on Behalf of
18 Business Energy Alliance and Resources. Did you
19 prepare this testimony?

20 **A.** Yes, I did.

21 **Q.** And to the best of your knowledge is it true
22 and correct?

1 **A.** Yes.

2 **Q.** And do you have any corrections to this
3 testimony?

4 **A.** Just one. On page 5, line 18, it says:
5 "Identification is a relatively means" and the word
6 "simple" should be inserted in there.

7 I also should mention that I have a version of
8 this testimony that I printed off my own system, and
9 it may not be identical in pagination from the one
10 coming off the Web.

11 MR. FLYNN: I'm sorry. I can't find that.

12 MR. MOORE: I can't find it either.

13 **Q.** Can you read the full sentence?

14 **A.** "When the end user" -- the question starts:
15 "Mr. Carls argues".

16 MR. MATRISCH: Oh, it's on page 4, line 16
17 through 18 maybe.

18 **A.** The sentence begins: "When the end user
19 classification".

20 **Q.** Right. And so your change is on that sentence
21 which is on page 4, line 16.

22 **A.** In my printed version the sentence reads: "When

1 the end user classification is so clearly associated
2 with the distinct usage pattern, the grain dryer
3 identification is a relatively" and the word
4 "simple" is missing and should be inserted "means".

5 **Q.** And with those changes, if asked those
6 questions, would you give the same answers?

7 **A.** Yes, I would.

8 MR. MOORE: At this point I offer Ms. Smith for
9 cross-examination. I offer into evidence BEAR
10 Exhibits 1 and 2.

11 JUDGE BRODSKY: Is there any objection to the
12 corrected BEAR Exhibits 1 and 2 and the schedules
13 attached to them?

14 MR. CLARKE: No objection.

15 MR. FLYNN: No.

16 JUDGE BRODSKY: Hearing none, those exhibits as
17 corrected will be admitted subject to cross and
18 subject to providing the corrected version.

19 (Whereupon BEAR Exhibits 1 Revised and 2
20 Revised were received into evidence.)

21 MR. MOORE: I will put those up on e-Docket.

22 JUDGE BRODSKY: Okay. If you're going to do it

1 by e-Docket, they should be BEAR Exhibits 1 and 2
2 Revised. Otherwise, just make the changes by hand.

3 With that, do you wish to proceed?

4 MR. FLYNN: I have a few minutes. Shall I go?
5 I assume I'm the only one.

6 CROSS EXAMINATION

7 BY MR. FLYNN:

8 Q. High.

9 A. High.

10 Q. My name is Chris Flynn. I represent the Ameren
11 Companies. Good morning. I'm sorry you had such
12 difficulty arriving.

13 Ms. Smith, your concerns expressed in your
14 testimony relate to the rate treatment of grain
15 dryers. Is that right?

16 A. That's correct.

17 Q. And you represent the interests of certain
18 grain dryers in this proceeding. Is that correct?

19 A. That's correct.

20 Q. How many --

21 A. I don't represent them, but I'm speaking for
22 their representative. I think the lawyer represents

1 them.

2 **Q.** All right. You're here on behalf of the
3 Business Energy Alliance and Resources?

4 **A.** Yes.

5 **Q.** All right, and it's your understanding that
6 there are certain grain dryers who are members of or
7 otherwise represented by the alliance?

8 **A.** Yes.

9 **Q.** Which I believe is referred to by the acronym
10 BEAR.

11 **A.** Yes.

12 **Q.** Okay. How many of these grain dryers
13 participate in BEAR?

14 **A.** I don't remember the number. I think it was
15 between 15 and 20.

16 **Q.** Okay. And have you ever spoken directly with
17 the grain dryers themselves?

18 **A.** No. I have received data from them, but I have
19 not spoken to them.

20 **Q.** Do you know their names?

21 **A.** No, I do not.

22 **Q.** Okay. Do you have an understanding of the

1 specific business of each of these grain dryers?

2 **A.** I have an understanding of the business of
3 grain dryers.

4 **Q.** Of grain drying?

5 **A.** Grain drying, yes, as is done in Illinois.

6 **Q.** All right. Do you know if any of these
7 entities engages in any other business activity
8 besides grain drying in the fall?

9 **A.** I do not know that.

10 **Q.** All right. Have you ever dried grain yourself?

11 **A.** No.

12 **Q.** Have you worked for a grain dryer?

13 **A.** No.

14 **Q.** Have you worked in the agri business?

15 **A.** Directly, no.

16 **Q.** How long does it take to dry grain?

17 **A.** I believe a load comes in and is dried in a day
18 or two.

19 **Q.** Can you interrupt the process and start it up
20 again at a later date?

21 **A.** I'm not certain. I believe that sometimes it
22 is necessary to start up and do additional drying.

1 I don't know if that would be called an interruption
2 of the process or not.

3 Q. Well, do you know if you begin drying and then
4 you turn off the heat and you let the grain sit in
5 the semi-dried state for some period of time and
6 resume later on if there's an increased risk of rot?

7 A. Oh, yes, there is.

8 Q. I'd like to direct you to page 3 of your direct
9 testimony, please. If you'd let me know when you're
10 there.

11 A. I'm there.

12 Q. In the first question and answer on that page
13 you discuss, among other things, the development of
14 a rate, a grain dryer rate, by Illinois Power
15 Company. Do you see that?

16 A. Yes.

17 Q. And you indicate beginning at line 10 that the
18 genesis of this rate was a concern that these
19 customers might choose to install propane rather
20 than pay the alternative rate. Do you see that?

21 A. Yes.

22 Q. There hasn't been any concern expressed in this

1 proceeding by any witness that grain dryers on the
2 CIPS or UE system might choose to install propane.
3 Right?

4 **A.** Right.

5 **Q.** Okay. Further down on page 3 someone is asking
6 you a question, do CIPS rates violate this precept,
7 and by precept, this precept rather, you're
8 referring to your view that rate classes should
9 reflect customer load shape?

10 **A.** Well, more broadly, rate classes should reflect
11 cost causation characteristics, and the one that I
12 am primarily referring to is load shape.

13 **Q.** And at line -- beginning at line 29 on this
14 page and carrying over to the next page, you
15 indicate that sometimes there is a call to dry some
16 corn later in the year, but very cold days are not
17 appropriate for drying because it requires more fuel
18 to achieve the desired processing temperatures. Is
19 that your testimony there?

20 **A.** That's correct.

21 **Q.** And how often is sometimes, if you know?

22 **A.** I believe it's very rarely. I had complete

1 data in an earlier case, in the CILCO case, on grain
2 dryers, and there were about 90 dryers, and there
3 was almost no usage in January out of those 90
4 dryers.

5 Q. And how about February? Any usage?

6 A. February I believe there was less than January,
7 and I believe there was zero in March.

8 Q. Thank you.

9 Now, if the Commission were to establish a
10 grain dryer rate class.

11 A. Yes.

12 Q. As you propose.

13 A. Yes.

14 Q. The customers qualifying for that class would
15 cover less of the company's costs than they cover by
16 paying the general service charges today. Correct?

17 A. Yes.

18 Q. All right. Now, these costs that grain dryers
19 would no longer cover wouldn't simply go away, would
20 they?

21 A. No. They would be covered by other customers
22 on Rate 3, the remaining Rate 3.

1 **Q.** Is it possible that they could also be
2 allocated to the residential class?

3 **A.** As I understand how the company has allocated
4 costs originally and their cost allocation model,
5 no. These customers are currently in Rate 3. Costs
6 have been allocated to Rate 3. These customers look
7 different from the rest of Rate 3, which means
8 basically that they are subsidizing the other
9 customers on Rate 3, so there would be a
10 reallocation between customers who are currently on
11 Rate 3 as a result of the company's cost of service
12 model.

13 **Q.** All right. But -- fine.

14 Now, to your knowledge does the -- or the
15 Illinois Commerce Commission does not have a formal
16 rule that addresses when a new rate class should be
17 established, does it?

18 **A.** I don't believe it does.

19 **Q.** And to your knowledge the ICC has not
20 delineated in a formal rule or otherwise standard
21 criteria that should be applied when determining
22 whether to create a new rate class. Correct?

1 **A.** I am not familiar with orders by the Commission
2 going back far enough to answer that because this
3 would normally be sort of a rulemaking by a previous
4 order, and I'm not familiar with previous orders.

5 **Q.** Okay. Certainly new rate classes are not
6 something that we create in every rate case. Right?

7 **A.** Yes. That's correct.

8 MR. FLYNN: I don't have anything further.

9 JUDGE ALBERS: Just a couple of questions for
10 you, Ms. Smith.

11 THE WITNESS: Yes.

12 EXAMINATION

13 BY JUDGE ALBERS:

14 Q. Am I correct in understanding then that the
15 grain dryer customers that you're concerned about
16 don't use any gas for several months of the year?

17 **A.** They don't use any gas usually for most months
18 of the year.

19 **Q.** Okay.

20 **A.** It's a very concentrated usage.

21 Q. Can you tell me which months they do use gas?

22 **A.** It's normally September, October -- September

1 and October are the heaviest months, and November,
2 depending on the year, when corn is harvested there
3 may be drying in November. Any drying later in the
4 year is rather an anomaly of someone comes in and
5 has a load of something that was not adequately
6 dried.

7 **Q.** Okay. Now, I believe when you were answering
8 some of Mr. Flynn's questions you indicated there
9 might be a few instances where maybe December or
10 January or maybe even February might be a few times
11 when using gas?

12 **A.** I have been told by the representative of BEAR
13 that there will occasionally may be a day or two in
14 the peak period but not on the coldest days when
15 there may be a need to do some additional drying.
16 In addition to that information, which was verbal, I
17 do have complete data on usage, as I said, about 90
18 grain dryers in another territory. I am not certain
19 that that means that that usage was grain drying.
20 The company in that case indicated that there might
21 be a few customers on there that had added
22 additional usages to their original designation, but

1 the implication of the data seen is that there may
2 be a small amount of usage in peak months.

3 **Q.** You don't know whether or not these grain dryer
4 customers might use gas at different points in the
5 month for different purposes?

6 **A.** Well, that depends on the company, but the
7 normal --

8 **Q.** When you say company --

9 **A.** The gas company, because the normal process for
10 a customer on something like Rate 3 is that it
11 should be involving -- it should not involve their
12 heating use. If there's, for instance, a farm and
13 an office, that should be on a different rate, and,
14 as I said, that depends on the company's procedures,
15 but that would be the normal set of availability
16 clauses.

17 **Q.** Do you know whether other gas utilities have
18 interruptible rates aside from IP in Illinois?

19 **A.** IP has a grain dryer rate.

20 **Q.** Okay. Right.

21 **A.** And I don't believe there are any others. I
22 did a brief amount of research. I didn't look at

1 all of the utilities.

2 Q. Okay.

3 A. But I don't know of others.

4 Q. So to your knowledge the only other one is IP.

5 A. Yes.

6 JUDGE ALBERS: Okay. Thank you.

7 JUDGE BRODSKY: Just one point of
8 clarification.

9 EXAMINATION

10 BY JUDGE BRODSKY:

11 Q. When you say there's a small amount of usage on
12 a day in which there might be some additional drying
13 late in the grain drying season, it would use a
14 large quantity perhaps of gas, but just for a small
15 area or one specific site. Is that a correct
16 characterization?

17 A. Yes. Well, these are large customers. When
18 they turn on the gas, they're using a large amount
19 of gas. I should mention that if the company really
20 felt that it was a problem that some grain dryer
21 might be willing to spend an exorbitant amount of
22 money because they would need to use a lot of gas to

1 heat in the wintertime, they could deal with that
2 through a clause in the rate that didn't allow that,
3 and they could actually look at the usage in January
4 and disallow anything that looked like it would be a
5 problem. I think basically though the economics
6 themselves cause the grain dryers not to use gas on
7 the coldest days.

8 **Q.** Okay. So it would be some sort of a larger,
9 full size usage at a site, one site where they're
10 drying the grain.

11 **A.** Yes.

12 JUDGE BRODSKY: Is there redirect?

13 MR. FLYNN: One think that Ms. Smith said that
14 I wanted to ask her about.

15 CROSS EXAMINATION

16 BY MR. FLYNN:

17 **Q.** When the judge was asking you about the usage
18 during the heating season months, I believe you
19 indicated -- you said that you were told by a BEAR
20 representative about usage by the grain dryers. Who
21 was that BEAR representative?

22 JUDGE ALBERS: Well, wait a minute. Mr. Flynn,

1 normally we don't allow these kind of follow-up
2 questions. Are you just trying to -- is that all
3 you're wanting to know is who --

4 MR. FLYNN: Yes. That was it. I'm not going
5 anywhere with this.

6 JUDGE ALBERS: Is there any objection?

7 MR. MOORE: I have no objection, if that's all
8 it is.

9 **A.** It was B. J. Hilton.

10 MR. FLYNN: Nobody stopped me, so I was just
11 asking away.

12 (Laughter)

13 **A.** We have no secrets.

14 MR. MOORE: I have just a couple questions
15 following up.

16 REDIRECT EXAMINATION

17 BY MR. MOORE:

18 **Q.** Ms. Smith, you indicated that companies will be
19 -- the grain dryers would have different rates for
20 their grain drying as opposed to their office
21 heating functions. I assume that that means they
22 have separate meters.

1 **A.** Yes.

2 **Q.** And have a separate rate for each?

3 **A.** Yes.

4 **Q.** Okay. And in response to one of the very last
5 questions from Judge Brodsky you indicated that the
6 economics of the service would cause a grain dryer
7 not to dry grain on the coldest peak days of the
8 year, and when you said the economics of it, what do
9 you mean by that?

10 **A.** It takes -- to take the grain dryer from
11 ambient temperature to heating on a very cold day,
12 it takes a great amount of energy compared to doing
13 it on a more moderate winter day.

14 **Q.** So if it's zero degrees out, that means that
15 there's that much more gas that's necessary to raise
16 it up to the grain drying heat.

17 **A.** That's correct.

18 MR. MOORE: I have no other questions.

19 JUDGE BRODSKY: Any recross?

20 MR. FLYNN: No.

21 JUDGE BRODSKY: Thank you.

22 (Witness excused.)

1 Is there anything else that has to be done
2 today?

3 MR. MOORE: I have one matter. Judge Albers
4 asked me if we had a list of customers of BEAR that
5 are -- or members of BEAR that are grain dryers
6 within the CIPS territory. I can read into the
7 record five such customers.

8 JUDGE ALBERS: Please.

9 MR. MOORE: If that's appropriate now.
10 Assumption Co-op, Farmers Elevator of Mason City,
11 Two Rivers FS, Culver Fancy Prairie, and Arcola
12 Co-op. That's all that I can give you at this time,
13 and these are all CIPS customers that are members of
14 BEAR that dry grain.

15 JUDGE ALBERS: Is that Culver Fancy Prairie
16 Elevator?

17 MR. MOORE: I'm not sure.

18 JUDGE ALBERS: Okay. Thank you.

19 Off the record.

20 (Whereupon at this point in the
21 proceedings an off-the-record discussion
22 transpired.)

1 JUDGE BRODSKY: We are back on the record, and
2 there being nothing further, we will continue this
3 to 9:00 tomorrow morning.

4 (Whereupon the case was continued to July
5 9, 2003, at 9:00 a.m. in Springfield,
6 Illinois.)

7 (Whereupon BEAR Exhibits 1 Revised and 2
8 Revised were marked for identification.)

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